

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER
ITA No. 5912/MUM/2025 (AY: 2017-18)
(Hybridhearing)

Sukir Ladaku Naik, Sanjay Niwas, Near Fish Market Bonkode, Navi Mumbai [PAN:ADGPN3045F]	Vs	ITO, 28(3)(1), Mumbai IT-Office, Vasi Railway Station Building, Navi Mumbai
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Satyaprakash Singh, CA
Revenue by	Shri Nikhil Tiwari, Sr. AR (Virtually)
Date of Institution	25.09.2025
Date of hearing	06.01.2026
Date of pronouncement	06.01.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of Id. CIT (A)/NFAC dated 16.08.2025 for assessment year 2017-18. The assessee has raised following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in confirming addition of Rs.3,97,000/- on account cash deposit u/s 68 of the Income Tax Act. The appellant prays that the said addition may please be deleted.

2. The appellant craves leave to add and alter the grounds of appeal."

2. The rival submissions of both the parties have been heard and record perused. The Id. Authorised Representative (AR) of the assessee submits that assessee is individual and proprietor of Sanjay Country Bar and in the business of sale of Indian made liquor. The assessee is procuring liquor from distributor and selling across the counter. All the sales during the relevant

financial year were in cash. Cash collection received across the counter sales were deposited in bank accounts on daily basis. During the relevant financial year the assessee made purchases of Rs.1.12 Crore and have shown sales of Rs.1.33 Crore. During the relevant financial year the assessee deposited total cash of Rs.1.11 Crore, which includes Rs.3,97,000/- in the form of Specified Bank Note (SBN). The Assessing Officer while passing the assessment order made addition of Rs.3,97,000/- and tax the same under Section 115BBE. The cash deposit during demonetisation period particularly in the form of SBN was out of cash sales. The Assessing Officer and the Id CIT (A) has not even allowed the concession of cash deposit allowed by CBDT in its Circular No.3 of 2017. The Id. AR of the assessee submits that during the period of 09.11.2016 to 30.12.2016 the assessee made cash deposit of Rs.16,09,300/- out of which only Rs.3,97,000/- was in the form of old currency note and balance of Rs.12,300/- was other normal currency. The SBN was only 3.56% of the entire cash deposit during the year. The Id. AR for the assessee submits that entire addition may be deleted and in alternative at least a concession of Rs.2.50 Lakhs as per CBDT Circular No.3/2017, may be allowed. The Id. AR further submits that enhanced rate of tax as prescribed under Section 115BBE is not applicable on the cash deposit prior to 01.04.2017 as such provision is applicable from 01.04.2017 onwards as has been held by Hon'ble Madras High Court in SMILE Microfinance Limited Vs ACIT [2025]179 taxmann.com 65 (Madras)

3. On the other hand, the Id. Senior DR for the Revenue supported the order of lower authorities.

4. We have considered the rival submission of both the parties and have gone through the orders of lower authorities carefully. There is no dispute that assessee is engaged in the sales of Indian made liquor. The sales in such business is in cash. There is no dispute that during the entire financial year the assessee has made deposit of more than Rs.1.11 Crore. Even during the demonetisation period the assessee has deposited more than Rs.16 Lakhs, out of which only Rs.3.97 Lakhs was in the form of SBN. Considering the nature of business activities of the assessee the cash deposit was not abnormal, therefore, entire addition of cash deposit is deleted. In the result, the grounds of appeal raised by the assessee are allowed.
5. In the result, appeal of the assessee is allowed.

Sd/-

**ARUN KHODPIA
ACCOUNTANT MEMBER**

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 06/01/2026
Ashwani Rao
Sr. Private Secretary

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai