

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.4307/Del/2025
(ASSESSMENT YEAR 2017-18)**

Satish Kumar Malik, 2/31, Ansari Road, Darya Ganj, New Delhi-110002. PAN-ADRPM7097D (Appellant)	Vs.	Income Tax Officer, Ward-52(3), Delhi. (Respondent)
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Assessee by	Shri R.M. Mehta, CA and Shri J.P. Chawla, CA
Department by	Shri Jitender Singh, CIT-DR
Date of Hearing	24/11/2025
Date of Pronouncement	16/01/2026

ORDER

PER MANISH AGARWAL, AM:

The present appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 28.05.2025 in Appeal No. CIT(A), Delhi-18/10299/2019-20 arising out of the order passed u/s 143(3) of the Income Tax Act, 1961 ('the Act' in short) dated 30.12.2019 for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual and engaged in the business of trading of goods. The return of income for the year under appeal was filed on 02.11.2017 declaring total income of Rs.26,19,530/- and the case of the assessee was selected under complete scrutiny under CASS for the reason "abnormal increase in cash deposit during the demonetization". Thereafter, notice u/s 143(2)

followed by notices u/s 142(1) were issued from time to time, In response to which assessee filed written submissions. After considering the submissions filed by the assessee the AO was of the opinion that assessee had deposited cash of Rs.44,44,750/- in bank during demonetization period in SBN source of which was not explained and, therefore, made the addition of the said cash as unexplained credits u/s 68 of the Act and further invoked the provisions of section 115BBE of the Act and charge tax at the higher rate.

3. Against the said order, assessee preferred an appeal before the Ld. CIT(A) who partly allowed the appeal of the assessee wherein Ld. CIT(A) directed to reduce the G.P. rate declared on such deposits as the same is claimed as generated out of sales by the assessee.

4. Aggrieved by the said order, the assessee is in appeal before the Tribunal by taking the following grounds of appeal:

- “1. *That the Assessing Officer erred both in law and on facts in making an addition of ₹44,44,750 under section 68 read with section 115BBE of the Income Tax Act, 1961, by treating the cash deposited in the bank during the demonetization period as unexplained cash credit, despite the fact that the entire amount was duly recorded in the regular books of accounts and supported by documentary evidence.*
2. *That the Assessing Officer/ the Ld CIT(A) both erred in law and fact by characterizing the aforesaid cash deposit of 44,44,750 as cash sales without properly appreciating that:*
 - *₹17,32,333 represented cash sales made between 01.04.2016 to 08.11.2016, fully supported by sale invoices and recorded in the audited books.*
 - *₹27,12,417 represented available cash in hand, including opening cash balance and withdrawals from bank after meeting business expenses.*

The entire amount was reflected in audited books of account, which were neither found defective nor rejected under section 145(3) of the Act

3. *That the learned Commissioner of Income Tax (Appeals) erred in upholding the addition of 244,44,750 under section 68 read with section 115BBE, despite partly allowing relief by reducing the addition to the extent of gross profit already taxed, thereby effectively resulting in unjust and impermissible double taxation. The alleged cash deposits were part of regular business transactions, duly recorded in the books of accounts and supported by documentary evidence. The sustained addition is arbitrary, lacks any adverse findings regarding the genuineness of the books or the evidentiary support of the transactions, and is contrary to settled legal principles and the principles of natural justice. Hence, the entire addition deserves to be deleted.*
4. *That the appellant reserves to itself, the right to add, alter, amend, substitute and/or withdraw any Ground(s) of appeal on or before the date of hearing.”*
5. Heard both the parties and perused the material available on record. Ground of appeal No.1 is general in nature.
6. Regarding Ground of Appeal No.2, it is observed that lower authorities have confirmed the addition towards cash deposited in bank during the demonetization period in SBN as the assessee was not able to explain the sources, however the AO has not invoked the provisions of section 145(3) of the Act, therefore, the Ld. CIT(A) hold that since the said cash is part of the sales declared by the assessee, therefore, the GP declared on such sale is to be reduced out of total deposits in SBN held as unexplained.
7. So far as the sources of such cash is concerned, before us, ld. AR for the assessee reiterated the same arguments as were made before the lower authorities and submits that it is accumulated out of regular sales and since books of account were not rejected, no further addition is to be made. However, looking to the facts that the AO has not disputed the business of the assessee nor denial the sales declared and accepted the trading results, therefore, in our considered opinion a sum of Rs.

2,00,000/- is sustained which will meet end of justice in this regard. Accordingly, ground of appeal No.2 of the assessee is partly allowed.

8. Ground of appeal No.3 is with respect to application of provisions of section 115BBE of the Act. The Hon'ble Madras High Court in the case of ***S.M.I.L.E Microfinance Ltd. vs. ACIT*** in ***WP(MD) No. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad.)*** has held that provisions of section 115BBE of the Act are applicable from Assessment Year 2018-19 onwards. Thus by respectfully following the aforesaid decision of hon'ble Madras high court, we direct the AO not to invoke section 115BBE of the Act on the additions sustained by us herein above while deciding assessee's substantive ground of appeal No. 1. Accordingly, ground of appeal No.3 of the assessee is allowed.

9. In the result, appeal of the assessee is partly allowed.

Order is pronounced in the Open Court 16. 01. 2026.

Sd-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 16.01.2026

PK/ Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI