

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.255/Pat/2025
Assessment Year: 2017-18

Sandeep Tiwari.....Appellant

Vill: Alitolla, PO Thakraha,
VIA Nechua Jalalpur, West Champaran,
Bettiah, Bihar- 841503..
[PAN: APOPT9064Q]

vs.

ITO, Ward-1(5), Bettiah..... Respondent

Appearances by:

None appeared on behalf of the appellant.

Shri Ashwani Kr. Singla, JCIT, appeared on behalf of the Respondent.

Date of concluding the hearing : January 08, 2026

Date of pronouncing the order : January 09, 2026

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal filed by the assessee is directed against the order dated 24.05.2025 passed by the NFAC, Delhi u/s 250 of the Income Tax Act, 1961 (the 'Act') for the assessment year 2017-18.

2. Brief facts of the case are that as per information available on the AIMS module of the Income-tax Department, it was noticed that during the period 09.11.2016 to 30.12.2016 (demonetisation period), the assessee had made cash deposits of ₹10,00,000 in his bank account maintained with Bank of India. Accordingly, notice under section 142(1) of the Income-tax Act, 1961 along with a questionnaire was issued. Since there was non-compliance on the part of the assessee, a final

show-cause notice was issued. In the absence of any response, the Assessing Officer treated the entire cash deposit of ₹10,00,000 as unexplained money under section 69A, taxable under section 115BBE, and completed the assessment under section 144 of the Act. Thus, the total income of the assessee was assessed at ₹10,00,000 by order dated 21.11.2019, and tax was charged under section 115BBE. The assessee, carrying on business under the name and style of Kali Mata Trading Company, engaged in trading of rice, contended before the Ld. CIT(A) that the cash deposited was generated out of regular business transactions, wherein rice was purchased from farmers and sold in retail. It was further explained that cash deposits were made to facilitate business payments and that the deposits were made in specified demonetised currency.

3. The CIT(A) accepted the contention of the assessee to the extent that the cash deposits were relatable to business activity. Accordingly, the CIT(A) estimated the income at 8% of the total turnover of ₹48,97,580, resulting in business income of ₹3,91,806, and restricted the addition under section 69A of the Act to the said amount.

4. Aggrieved, the assessee is in appeal before the Tribunal, contending that once income is estimated by applying a gross profit rate of 8%, the provisions of section 69A cannot be simultaneously invoked. It was argued that the income so determined should be treated as normal business income, taxable at the regular rate and not under section 115BBE.

5. On the other hand, the Id. DR supported the order of the lower authority but could not controvert the legal contention raised by the assessee.

6. We have heard the rival submissions and perused the material available on record. It is an admitted fact that the Ld. CIT(A) has accepted the cash deposits as arising from business turnover and has estimated income by applying a profit rate of 8%. Once income is determined by estimating profits on turnover, the profit element alone is brought to tax. In such circumstances, the provisions of section 69A relating to unexplained money cannot be simultaneously applied. The income so assessed as the character of business income and is liable to be taxed under the normal provisions of the Act, and not under section 115BBE of the Act. Therefore, we are of the considered view that the finding of the Ld. CIT(A) invoking section 69A of the Act, while simultaneously estimating income at 8%, is bad in law. Accordingly, the application of section 69A read with section 115BBE of the Act is directed to be deleted, and the income of ₹3,91,806 shall be treated as normal business income, taxable under the regular provisions of the Act.

7. In the result, the appeal of the assessee is allowed to the extent indicated above.

Kolkata, the 9th January, 2026.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 09.01.2026.

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT (A)-

4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches