

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“DB” BENCH, AMRITSAR**

**PHYSICAL HEARING**

**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND**  
**SHRI UDAYAN DAS GUPTA, JM**

**आयकर अपील सं. / ITA No.76/ASR/2024**  
**(निर्धारण वर्ष / Assessment Year: 2017-18)**

<b>Shri Dharampal</b> Prop. Guru Kripa Jewellers Androon Bazar, Pathankot – 145001	<b>बनाम/ Vs.</b>	<b>ITO Ward 1(1)</b> Dhangu Road Pathankot-145001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AEQPC-0946-M</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Adjournment Application rejected
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Charan Dass (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	20-01-2026
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	20-01-2026

**आदेश / O R D E R**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC dated 28-12-2023 in the matter of an assessment framed by Ld. AO u/s 143(3) on 29-12-2019. The Ld. AR filed adjournment application which was rejected considering the case records. The Ld. Sr. DR pleaded for dismissal of the appeal. After due consideration, the appeal is disposed-off as under.

2. In the assessment order, Ld. AO made twin additions of Rs.2.83 Lacs and Rs.7.20 Lacs respectively. The assessee was found deposited cash of Rs.25.60 Lacs during demonetization period and accordingly, it was required to prove the sources thereof. The assessee is stated to be engaged in jewellery business. In response to hearing notices, the assessee furnished cash book but failed to file sales bill. The assessee had cash-in-hand for Rs.22,77,725/-. After granting benefit of available cash balance for Rs.22.77 Lacs, Ld. AO made addition of Rs.2.83 Lacs u/s 68 r.w.s. 115BBE of the Act. The Ld. AO also disputed the cash balance as on 08-11-2016 since during 01-11-2016 to 08-11-2016, there was 36 instances of debtors' receipt of Rs.20,000/- which was held to be improbable. The amount of Rs.7.20 Lacs was thus further added u/s 68 r.w.s. 115BBE of the act for want of sales bills and debtors' confirmation. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us.

3. It emerges that the assessee is having available cash balance as per its cash book for Rs.22.77 Lacs whereas the assessee has deposited cash of Rs.25.60 Lacs and therefore, the source of Rs.2.83 Lacs has remained unexplained. However, the Ld. AO has even doubted the available cash balance of Rs.7.20 Lacs by rejecting debtors' collection despite the fact that the books have not been rejected. The assessee has made sales to these debtors which has already been offered to tax and form regular books of accounts of the assessee. The sales have duly been disclosed to VAT authorities. Therefore, the receipts from debtors for Rs.7.20 Lacs could not be

added u/s 68. In the words, the addition of Rs.7.20 Lacs stand deleted. The addition of Rs.2.83 Lacs stand confirmed which would be chargeable to tax at normal rates of tax as per the decision of Hon'ble High Court of Madras (Madurai Bench) in **S.M.I.L.E. Microfinance Ltd. vs. ACIT (WP (MD) No.2078 of 2020 dated 19-11-2024)** holding as under: -

16. The next contention raised by the Learned Senior Counsel is that the under section 115BBE the rate of tax imposed is increased from 30% to 60% and the same is applicable with effect from 01.04.2017 onwards as per the amendment. Therefore, the same is applicable to any transaction from 01.04.2017 onwards and nor prior to any transactions prior to 01.04.2017. Since in the present case all alleged transactions are for the period from 08.11.2016 to 30.12.2016, hence the erstwhile rate of tax 30% only is applicable. But the contention of the revenue is that the amendment was with effect from 01.04.2017 and hence the same is applicable for the financial year 2016-2017 and the assessment year 2017-2018. Further the amendment to section 115BBE is directly related to demonetization which would be evident from objects and reasons for such amendment. In order to consider the same, the objects and reasons of Taxation Laws (Second Amendment) Bill 2016 is extracted hereunder:

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**Taxation Laws (Second Amendment) Bill, 2016 introduced in Lok Sabha; A scheme namely, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY) proposed in the Bill.**

Evasion of taxes deprives the nation of critical resources which could enable the Government to undertake anti-poverty and development programmes. It also puts a disproportionate burden on the honest taxpayers who have to bear the brunt of higher taxes to make up for the revenue leakage. As a step forward to curb black money, bank notes of existing series of denomination of the value of Rs.500 and Rs. 1000 [Specified Bank Notes (SBN)] have been recently withdrawn the Reserve Bank of India.

Concerns have been raised that some of the existing provisions of the Income tax Act, 1961 (the Act) can possibly be used for concealing black money. The Taxation Laws (Second Amendment) Bill, 2016 ('the Bill') has been introduced in the Parliament to amend the provisions of the Act to ensure that defaulting assesseees are subjected to tax at a higher rate and stringent penalty provision.

Further, in the wake of declaring specified bank notes "as not legal tender", there have been suggestions from experts that instead of allowing people to find illegal ways of converting their black money into black again, the Government should give them an opportunity to pay taxes with

heavy penalty and allow them to come clean so that not only the Government gets additional revenue for undertaking activities for the welfare of the poor but also the remaining part of the declared income legitimately comes into the formal economy.

In this backdrop, an alternative Scheme namely, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016' (PMGKY) has been proposed in the Bill. The declarant under this regime shall be required to pay tax @ 30% of the undisclosed income, and penalty @ 10% of the undisclosed income. Further, a surcharge to be called 'Pradhan Mantri Garib Kalyan Cess' @ 33% of tax is also proposed to be levied. In addition to tax, surcharge and penalty (totaling to approximately 50%), the declarant shall have to deposit 25% of undisclosed income in a Deposit Scheme to be notified by the RBI under the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. This amount is proposed to be utilised for the schemes of irrigation, housing, toilets, infrastructure, primary education, primary health, livelihood, etc., so that there is justice and equality.

An overview of the amendments proposed in the Bill are placed below;

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17. In the aforesaid objects and reasons nowhere it is stated that due to "demonetization" the unaccounted money ought to be charged 60% rate of tax. It only states that step had been taken to curb black money by withdrawing Specified Bank Notes of denomination of Rs.500 and Rs.1000. And also states the people may find illegal ways of converting their black money into black again, hence as per experts advice heavy penalty ought to be levied. From the language of the object "**that instead of allowing people to find illegal ways of converting their black money into black again**", it is evident that the government is intended to impose the same for future transactions. Especially the use of word "**again**" in the object would clearly indicate it is for future transactions i.e. from 01.04.2017. Therefore this Court is of the considered opinion that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and not prior to the said cut-off date. And for prior transaction the revenue is empowered to impose only 30% rate of tax.

The Hon'ble Court held that the revenue is empowered to impose 60% rate of tax for the transactions from 01-04-2017 onwards and not prior to the said cut-off date and for prior transaction, the revenue is empowered to impose only 30% rate of tax. Respectfully following the same, we direct Ld. AO to apply normal rate of tax on sustained addition of Rs.2.83 Lacs and re-compute the income of the assessee. We order SO.

4. The appeal stands partly allowed accordingly.

Order pronounced on 20<sup>th</sup> January, 2026.

Sd/-

**(UDAYAN DAS GUPTA)  
JUDICIAL MEMBER**

Sd/-

**(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER**

Dated: 20-01-2026

**आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR