आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष, एवं सुश्री पदमावती यस, लेखासदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENTAND
MS. PADMAVATHY.S, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2312/Chny/2025
निर्धारण वर्ष /Assessment Year: 2017-18

Balan Logeswaran, 317/2, Opp, Syndicate Bank, Salem Road, Tiruchengode, Namakkal – 637 211. PAN: AHJPL 5084D	**Vs.**	The Income Tax Officer, Ward-1, Tiruchengode.
(अपीलार्थी/Appellant)		**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Mr. T.S. Lakshmi Venkataraman, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R.Kavitha, Addl. CIT
सुनवाई की तारीख/Date of Hearing	:	20.01.2026
घोषणा की तारीख /Date of Pronouncement	:	30.01.2026

आदेश / O R D E R

PER PADMAVATHY.S, A.M:

This appeal by the assessee is against the order of the Commissioner of Income Tax / National Faceless Appeal Centre (NFAC), Delhi, (in short "CIT(A)") passed u/s. 250 of the Income Tax Act, 1961 (in short "the Act") dated 14.07.2025 for Assessment Year (AY) 2017-18. The grounds of appeal raised by the assessee are as under:

> *"1. On the facts and circumstances of the case the order of first appellate authority dated 14.07.2025 in partly allowing the appeal of the appellant is not legally justified.*
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> *2. On the facts and circumstances of the case, the AO is not justified in invoking the provisions of section 115BBE of the Act when the above*

provision itself came into effect only from 01.04.2017. In this connection, reliance is placed on the decision of Delhi Bench in the case of DCIT, Circle 19(1), Delhi Vs. Rai Bhadur Narninsingh Sugar Mills Limited in ITA No.3027/DEL/2024 reported in 213 ITD 222,

3. On the facts and circumstances of the case, the first appellate authority is not justified in sustaining the addition made by the AO to an extent of Rs. 29,02,999/- u/s 69A r.w.s 115BBE of the Act which amount represents credits in the bank accounts maintained with Axis Bank Limited and The Karur Vysysa Bank Limited.

4. On the facts and circumstances of the case, the entire credits made in the bank account does not constitute income of the appellant. The lower authorities should have assessed only the income embedded in such credits in the above bank accounts.

5. On the facts and circumstances of the case, the AO is not justified in making the above addition without rejecting the books of accounts maintained by the appellant u/s 145(3) of the Act. For the assessment year 2017-18, the appellant has maintained books of accounts and have also filed audit report in Form 3CB-3CD. The appellant has declared turnover of Rs.2,32,12,887.74/-and net profit of Rs.4,38,942/- which comes to 1.89% of the turnover.

6. On the facts and circumstances of the case, the lower authorities should have applied profit margin of 1.89% on the above credits in the bank account which is the profit margin declared by the appellant. If the above margin is applied on the credits of the above bank accounts, a sum of Rs.54,867/- can alone be brought to assessment.

7. On the facts and circumstances of the case, the first appellate authority is not justified in not adopting the "Peak Credit" concept in finalizing the appeal proceedings when the appellant was engaged in business of Plywood trading and has made periodical debits and credits in the above bank accounts. If the above concept is adopted, the Peak credit is Rs.2,83,000/-on 18.06.2016 in Axis Bank account and Rs.1,13,069/- on 31.03.2017 in KVB Ltd account totaling to Rs.3,96,069/-.

8. In view of the above grounds and other submissions to be made at the time of Appeal hearing. the order U/S 250 passed by Commissioner of Income Tax (Appeals), NFAC may be cancelled and justice rendered."

2. The assessee is an individual and engaged in the business of plywood trading under name Shri Deepam Traders. The assessee filed the return of

income for A.Y 2017-18 on 03.11.2017 admitting total income of Rs.4,39,610/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The A.O during the course of assessment noticed that the assessee is having two bank accounts one with Axis Bank Ltd. and the other with KVB Ltd which have not been disclosed by the assessee. From the perusal of the bank statements, the A.O noticed that the assessee has deposited cash during the demonetization period in specified bank notes. The A.O did not accept the submission for the assessee that the cash balance as of 08.11.2016 is the source for the cash deposit. Accordingly, the A.O made an addition of the entire credit in both the bank accounts to make an addition of Rs. 60,04,999/-. Aggrieved, the assessee filed further appeal before CIT(A). The CIT(A) gave partial relief to the assessee by deleting the addition of Rs. 31,02,000/-. With regard to the balance addition made towards undisclosed personal bank account the CIT(A) did not accept the submissions of the assessee and sustained the addition by holding that:

> *"8.2 In appellate proceedings, the appellant has admitted the existence of the two bank accounts but submitted that the AO should have applied the principle of peak credit. It was stated that the highest balance in the Axis Bank account was Rs.2,83,000/- as on 18.06.2016 and Rs.1,13,069/- in the Karur Vysya Bank account as on 31.03.2017, and therefore the peak credit theory should have been applied, restricting the addition to Rs.3,96,069/-. The appellant relied on decisions of the Madras High Court in PCIT v. A. Anbukannan, the Allahabad High Court in Naresh Aggarwal v. CIT (376 ITR 534), and the Mumbai ITAT in Hansat Maneklal Savani v. ITO to support the proposition that where multiple credits and withdrawals are involved in an unrecorded account, the addition should be confined to peak balance. It was argued that the entire turnover in a bank account cannot be treated as income, and only the unexplained peak is liable to be taxed.*
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> *8.3 During appeal, the assessee did not dispute the deposits but submitted that only the peak credit in these accounts should be taxed. While the peak credit theory is indeed a judicially recognized method for estimating unexplained income in appropriate cases-particularly where bank accounts reflect repeated deposits and withdrawals suggesting rotation of funds it is by no means a mechanical or default rule applicable in every*

instance of unexplained bank credits. Its application depends fundamentally on the surrounding facts and the degree to which the assessee discharges the initial burden of explaining the nature and source of the transactions. In the present case, the appellant has admittedly failed to disclose the two personal bank accounts in question either in the return of income or in the audited books of account. The said accounts came to light only upon independent inquiry by the Assessing Officer, and the assessee did not furnish any explanation or clarification during the assessment proceedings, despite being afforded adequate opportunity through statutory notices under Section 142(1).

8.4 Furthermore, there is a complete absence of any explanation in respect of the identity of the depositors, the nature and purpose of individual credits, or any documentary evidence to suggest that the funds represented business-related receipts or were derived from known or disclosed sources. No linkage has been established between the bank transactions and the appellant's declared income or financial statements. It is a settled principle that the peak credit theory presupposes some level of disclosure, along with cogent evidence of rotation or re-deposit of the same funds. In the absence of such foundational facts, the application of peak credit becomes untenable and speculative.

8.5 The claim for applying peak credit has been raised for the first time during the appellate proceedings and is unsupported by any credible analysis of fund flow, withdrawal-deposit pattern, or factual matrix showing that the same money was recycled. The plea is, in effect, an arithmetical assertion made without substantiating the underlying nature of the transactions. Courts have consistently held that the application of peak credit cannot substitute the assessee's obligation to prove the source of unexplained deposits. In this regard, reference may be made to the decision in CIT vs D.K. Garg (Delhi HC), where it has been held that unless the assessee demonstrates with evidence that deposits in undisclosed bank accounts represent rotated funds and discloses their source, the entire credit may be assessed as unexplained.

8.6 In the present case, the entirety of the deposits in the two personal accounts remains uncorroborated and unexplained, and there is no indication that the funds relate to the business or to any previously taxed or known income. The appellant had ample opportunity to furnish explanations and supporting evidence during the assessment but chose not to. The subsequent effort at the appellate stage, limited to submitting bank statements and computing the peak balance without explaining the underlying transactions, falls short of the statutory burden imposed under Section 69A. The law requires the assessee to establish the identity, capacity, and genuineness of the transactions; mere computation of a peak balance, in isolation, does not fulfil this requirement.

8.7 Accordingly, in the absence of any satisfactory explanation or evidence regarding the nature and source of the deposits, I find the action of the Assessing Officer in taxing the entire sum of Rs.29,02,999/- under Section 69A to be fully justified. The plea for applying the peak credit theory is rejected as being legally and factually untenable. This ground of appeal is therefore dismissed."

3. The primary submission of the Ld. AR before us is that the A.O has added the entire credit balance in the bank account without considering the withdrawals made by the assessee and therefore, the addition to be sustained based on peak credit. The Ld. AR further submitted that the A.O has levied tax u/s. 115BBE of the Act which came into effect from A.Y 2018-19 and therefore, the A.O is not correct in taxing the entire credit balance u/s. 115BBE of the Act.

4. The Ld. Departmental Representative (DR), on the other hand, relied on the orders of the lower authorities.

5. We have heard the parties, and perused the material available on record. The AO during the course of assessment noticed that the assessee is having 2 bank accounts which have not been disclosed. The AO treated the entire credit as unexplained in the hands of the assessee. The CIT(A) while confirming the addition did not allow the plea of the assessee that the addition should be restricted to peak credit. The additions based on peak credit is made when there are frequent unexplained deposits and withdrawals are there in the bank account where instead of considering each deposit and withdrawals the AO makes addition of only the highest net amount outstanding to avoid double taxation. The principle of peak credit proceeds on the fundamental premise that the money deposited and/or withdrawn from the assessee's bank account belongs to the assessee, or in respect of which ownership vests in the assessee. In the present case, it is an admitted fact that the assessee is having 2

undisclosed bank accounts and from the perusal of the bank statements we notice that the assessee has made frequent deposits and withdrawals from the said accounts. It is also an admitted fact that the assessee has not been able to establish the source of the transactions routed through the said bank accounts based on which the addition is made. Considering the facts of the present case, we are of the considered view that there is merit in the claim of the assessee that addition is to be restricted to peak credit and not the entire credit transactions. Accordingly we direct the AO to restrict the addition to peak credit.

6. We further notice that the AO taxed the addition made u/s.115BBE of the Act. In this regard we notice that the Hon'ble Madras High Court in the case of S.M.I.L.E Microfinance Ltd. vs. ACIT [2025] 179 taxmann.com 65 (Madras) has held that the revenue is empowered to impose 60% rate of tax for the transactions from 01.04.2017 onwards and for transaction prior the said cut-off date to the revenue is empowered to impose only 30% rate of tax. Accordingly we direct the AO levy tax at 30% on the addition that is to be restricted to peak credit. It is ordered accordingly.

7. In result the appeal of the assessee is partly allowed.

Order pronounced on 30th day of January, 2026 at Chennai.

Sd/-	**Sd/-**
(जॉर्ज जॉर्ज के)	**(पदमावती यस)**
(George George K)	**(Padmavathy.S)**
उपाध्यक्ष / Vice President	**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated*: 30th January, 2026.*

EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF