

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (SMC) BENCH, AGRA**

BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No. 607/Agr/2025
Assessment Year: 2017-18**

Shree Badshah Yadav Charitable Trust Campus S. K. Scientific Public Inter College Karhal, Manipuri	Vs.	Income Tax Officer, Ward -4(2)(5), Mainpuri
PAN : AAOTS3631B		
(Appellant)		(Respondent)

Assessee by	Shri Anurag Sinha, Adv.
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	18.02.2026
Date of pronouncement	18.02.2026

ORDER

The assessee has filed this appeal against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 31.10.2025 for the Assessment Year 2017-18.

2. Aggrieved, the assessee is in appeal before ITAT, raising following grounds:

GROUND OF APPEAL

1 BECAUSE, the assessment order having been framed ex parte under section 144 of the Act, the Ld. CIT(A) failed to exercise the statutory powers vested under the proviso to section 251(1)(a) to set aside the ex parte assessment and restore the matter to the file of the Assessing Officer for a fresh adjudication, which would not have caused any prejudice to the Revenue, as the Assessing Officer would have had a full and fair opportunity to examine the material and explanations and to pass an order in accordance with law.

2 BECAUSE, the finding of the Assessing Officer that the cash deposits constitute "unexplained money" within the meaning of section 69A of the Act is perverse and contrary to the record, inasmuch as the Appellant Trust had no source of income other than its educational activities, a fact neither disputed nor alleged otherwise by the authorities below, and therefore the cash deposited in the bank accounts could only have arisen from students fee receipts, duly supported by institutional records, rendering the very invocation of section 69A legally untenable.

2.1 BECAUSE, the Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 37,00,000/- as unexplained money under section 69A read with section 115BBE of the Income-tax Act, 1961, without appreciating that the Appellant is a charitable trust running an educational institution, and the cash deposits represented students' fee receipts, duly supported by student-wise, course-wise and session-wise records, bank statements, cash book and university confirmations.

2.2 BECAUSE, the Ld. CIT(A) failed to appreciate that the impugned cash deposits constituted gross receipts of the educational institution and not taxable income, and that the Appellant's annual receipts were below Rs. 1 crore, thereby qualifying for exemption under section 10(23C)(i)(d), even in the absence of registration under section 12A.

2.3 BECAUSE, the Ld. CIT(A) has upheld the addition mechanically, ignoring overwhelming documentary evidence including affiliation and fee-payment records with Dr. B. R. Ambedkar University, thereby wrongly invoking sections 69A and 115BBE

2.4 BECAUSE, the Ld. CIT(A) erred in disregarding binding judicial precedents of the Hon'ble Income Tax Appellate Tribunal, Guwahati Bench and Delhi Bench, wherein identical cash deposits of educational institutions, including during the demonetization period, were held to be fees received from students and additions were directed to be deleted; consequently, the confirmation of the addition and the resultant demand is unsustainable in law.

3. BECAUSE, the levy of tax at the special rate under section 115BBE of the Act is illegal and unsustainable, inasmuch as the assessment order contains no express finding, direction, or satisfaction warranting the application of section 115BBE, and the mere characterization of an addition under section 69A does not automatically trigger the special rate.

3.1 WITHOUT PREJUDICE, even if section 115BBE is assumed to be applicable, the Ld. AO erred in applying the enhanced rate of 60%, which, as held by the Hon'ble Madras High Court in S.M.I.L.E. Microfinance Ltd. vs. ACIT [2024 (11) TMI 1444], operates only prospectively from 01.04.2017, and therefore the impugned levy is contrary to law.

4. BECAUSE, the authorities below erred in law and on facts in charging and sustaining the levy of interest under section 234B of the Act, inasmuch as the substantive addition itself is unsustainable, and further, the Appellant being an educational institution eligible for exemption under section 10(23C) (iiiad) had no liability to pay advance tax; without prejudice, the levy of such interest is purely consequential and, upon deletion or reduction of the addition, the interest levied is liable to be deleted or recomputed accordingly.

The Appellant respectfully craves leave to add to, amend, alter, modify, substitute, or withdraw any of the foregoing grounds of appeal, in whole or in part, at any time before or at the time of hearing of the appeal, as may be deemed necessary in the interest of justice.

3. Brief facts of the case are the Assessing officer observed from SFT data that assessee has made substantial cash deposit during the F.Y 2016-17 and in particular more money was deposited during demonetization period. Accordingly, notice u/s. 142(1) (i) of the Income Tax Act, 1961(in short' Act') was issued and served u/s. and it was noticed that assessee has not filed his return of income for the year under consideration. The assessee was asked filed the return of income and disclosed the source of cash to deposit the same in Allahabad Bank, Kalhar to extent of Rs. 33,00,000/- and in Allahabad Bank, Etawah to the extent of Rs. 4,00,000/-. Since there was no response a show cause notice u/s 144 of the Act was issued on 15.04.2019 to the assessee. Since there was no compliance

from assessee's side the assessment was completed u/s 144 of the Act and added the total cash deposit made by the assessee during the year as unexplained money u/s 69A of the Act.

4. Aggrieved with the above order, the assessee preferred an appeal before Id. CIT(A) in the first round of appeal, Id. CIT(A) dismissed appeal preferred by the assessee on the basis of non-admissibility and not adjudicated on merit. The assessee carried the matter to the ITAT and ITAT has remanded the matter back to the file Id. CIT(A) to adjudicate on merit. Assessee filed a detailed submissions in the second round of appeal before Id. CIT(A), the same is reproduced at page 3 to 11 of the impugned order. After considering above submissions Id. CIT(A) dismissed the appeal preferred by the assessee on the basis of findings in the assessment order. In this regard, he observed that AO made addition u/s 69 r.w.s 115BBE of the Act on the basis that substantial unexplained cash deposit were found in the assessee's bank account during the demonetization period and no satisfactory or plausible explanation was provided to justify the sources of these deposits. He further observed that the AO's actions is in consonance with well establish legal principle that unexplained cash credit, when no satisfactorily explained by the assessee are rightly treated as income liable to tax under the Act.

5. The assessee, despite repeated opportunities, failed to furnish any complete documentary evidence or verifiable explanation to demonstrate that the deposits represented legitimate receipt from non-sources. Since the assessee failed to discharge its burden of proving the genuineness of deposits with the above observations Id. CIT(A) dismissed all the grounds raised by the assessee. In all the grounds Id. CIT(A) has more or less observed similar observations to dismiss the appeal

6. Aggrieved with the above order, assessee is in appeal before us. At the time of hearing, the Id. AR brought to our notice the relevant facts on record. He submitted that Id. CIT(A) has dismissed the appeal in the second round of appeal without dealing on the issue of merit and more or less relying on original assessment proceedings which is concluded u/s 144 of the Act. Even though the matter was set aside to Id. CIT(A) to adjudicate on merit by the Hon'ble ITAT. Since the appeal was not disposed off on merits, he brought to our notice page 11 of the paper book, written submission and submitted that no effective opportunity of being heard was granted. The adjournment application filed by the assessee were ignored and the order was passed without considering the assessee's explanation. It is against the principle of natural justice. Further He brought to our notice page 55 of the paper book, letter correspondence with

Registrar of University which is placed at page 55 to 65 of the paper book. He also brought to our notice page 42 of the paper book which is the trust deed in which the main object of the trust is to impart the education. He also brought to our notice page 68 of the paper book wherein assessee has collected college fees from the students during July to October, 2016. With the above submissions he submitted that the matter may be remitted back to the file of AO.

7. On the other hand, Id. DR relied on the findings of lower authorities.

8. Considered the rival submission and material placed on record. I observe that this is the second round of appeal before ITAT and Id. CIT(A) has dismissed the appeal of the assessee even though the assessee had filed a detailed submissions before him and he has proceeded to adjudicate mechanically on the basis that the assessee has not submitted the relevant information during original assessment proceedings. The matter was remitted back to him by the Co-ordinate Bench for the exact reason that the assessee failed to submit the relevant information before AO during original assessment proceedings. Id. CIT(A) cannot take the same reasons to dismiss this appeal. The action is unnecessary and time consuming and no justice done to either side.

9. After considering the facts on record, I observe that assessee is a trust imparting education and filed before us detailed fees collection during July to October, 2016. Since, it was not submitted before lower authorities, It was submitted before Id. CIT(A) who failed to appreciate the same. Since, there is merit on the claim of the assessee and to meet the ends of justice, I am inclined to remit the issue back to the file of AO with the direction to verify the evidences submitted by the assessee in the form of paper book. It is needless to say proper opportunity of being heard be granted to the assessee. At the same time, I direct the assessee to file the relevant information before AO, if required further information may be submitted as called for by the AO. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18.02.2026

**Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Dated: 20.02.2026

*Ganesh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent

3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra