

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.222/RPR/2011  
निर्धारण वर्ष / Assessment Year : 2005-06

The Income Tax Officer-I,  
Bhilai (C.G.)

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Shri Rajendra Shivhare,  
Gram- Ban Barad,  
Post & Thana-Nandini Nagar,  
Distt. Durg (C.G.)-490 036  
PAN : ACGPJ3748N

.....प्रत्यर्थी / Respondent

Assessee by : None  
Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 10.04.2023  
घोषणा की तारीख / Date of Pronouncement : 04.07.2023

**आदेश / ORDER****PER RAVISH SOOD, JM:**

The present appeal filed by the revenue is directed against the order passed by the CIT(Appeals), Raipur dated 27.09.2011, which in turn arises from the order passed by the A.O. u/ss.144/254 of the Income-tax Act, 1961 (for short 'Act'), dated 24.12.2010 for A.Y.2005-06. The revenue has assailed the impugned order on the following grounds of appeal before us :

- “1. "Whether in law and on facts and circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.17,50,000/- made by the AO on account of unexplained investment in immovable properties u/s.69 of the I.T. Act, 1961"
2. "Whether in law and on facts & circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.17,67,600/- made by the AO on account of unexplained investment in movable properties u/s. 69 of the I.T. Act, 1961"
3. Whether in law and on facts & circumstances of the case, the CIT(A) has erred in deleting the addition of Rs. 1,24,30,799/- made by the AO on account of unexplained investment in Bank account u/s.69 of the I.T. Act,1961 and interest accrued at Rs.1,78,210/- on these deposits "
4. Whether in law and on facts & circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.9,03,000/- made by the AO on account of unexplained investment in bank account in the name of Chhattisgarh u/s.69 of the I.T.Act,1961 and interest accrued at Rs.40,544/- on these deposits"
5. Whether in law and on facts & circumstances of the case, the CIT(A) has erred in treating Chhattisgarh Mehar Samaj as a separate entity for assessment instead of treating assessee as real owner of funds/investments in question.
6. "The order of the Ld.CIT(A) is erroneous both in law and on facts"

7. "Any other ground that may be adduced at the time of hearing."

2. Original assessment was framed by the A.O in the case of the assessee vide order passed u/s.144 of the Act dated 20.12.2017, determining his total income at Rs.1,76,68,313/-, which thereafter was upheld by the CIT(Appeals) vide his order dated 15.10.2008.

3. On appeal, the ITAT, Bilaspur vide his order dated 18.09.2009 set-aside the order of the CIT(Appeals) and restored the matter to the file of the A.O for fresh consideration after affording a reasonable opportunity to the assessee. The A.O pursuant to the aforesaid direction of the Tribunal framed assessment vide his order passed u/s.144 r.w.s. 254 dated 24.12.2010 assessing the total income of the assessee at Rs.1,71,30,153/- after making following additions:

Sr. No.	Particulars	Amount
1.	Income from Rajendra Boot House on estimation basis	Rs.60,000/-
2.	Unexplained investment in immovable properties u/s. 69 of IT Act, 1961	Rs.17,50,000/-
3.	Unexplained investment in movable properties u/s.69 of IT Act, 1961	Rs.17,67,600/-
4.	Unexplained investment in bank accounts u/s.69 of IT Act, 1961	Rs.1,24,30,799/-
5.	Interest on credit balance of bank accounts in the name of Shri Rajendera Shivhare and his family members	Rs.1,78,210/-

6.	Unexplained investment in bank accounts standing in the name of Chhattisgarh Mehar Samaj	Rs.9,03,000/-
7.	Interest credited in the bank accounts of M/s. Chhattisgarh Mehar Samaj	Rs.40,544/-

4. On appeal, the CIT(Appeals) vacated the aforesaid additions and partly allowed the appeal of the assessee.

5. The revenue being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us. As the assessee respondent despite having been put to notice had failed to appear before us, therefore, we are constrained to dispose off the appeal after hearing the revenue appellant and perusing the orders of the lower authorities.

6. As the revenue has assailed the order of the CIT(Appeals) who had vacated the multi-facet additions made by the A.O, therefore, we shall first deal with the same in a chronological manner, as under :-

**A. Re : Addition on account of unexplained investment in immovable properties u/s.69 of the Act : Rs.17,50,000/-**

7. During the course of assessment proceedings, it was observed by the A.O that the assessee in his statement recorded by the police authorities had admitted of having made investments in immovable properties aggregating to Rs.17.50 lacs, as under:

a. Advance for purchase of farmhouse admeasuring 10 acres at Village Banbarad-	Rs.1,00,000/-
b. Cost of single storey building of 3000 sq.ft over ancestral plot-	Rs.7,50,000/-
c. Construction of boundary wall round lot of 18,000 sq. ft. and 8 adjacent shops-	Rs. 7,00,000/-
d. Investment in construction of Durga Mandir	Rs.50,000/-
e. Other investments- Contribution in renovation of Sant Ravidas Mandir and Dharmashala	<u>Rs.1,50,000/-</u>
<b>Total</b>	Rs.17,50,000/-

On being queried about the source from where the aforementioned investments were made, it was the claim of the assessee that the same were made out of withdrawals made by him from his current account with Chhattisgarh Memhar Samaj (CMS), i.e. a registered society, of which, he was *Sah-Sanyojak*. In support of his aforesaid claim the assessee had placed on record copy of his current account, confirmations of account and also affidavit of *Sah-Sanyojak* of the aforementioned society. Also, the assessee filed copy of the statement of affairs prepared on the basis of compilation of accounts which in turn was based on the details collected from the A.O and from certain other stray records which were available with him. Elaborating on the working of the CMS, it was submitted by the assessee that the said society was sincerely endeavouring to help its members to lead a moderate livelihood by engaging themselves in gainful employment by providing finance after accepting assistance from various

like minded persons on mutual benefit basis. The assessee in order to fortify the aforesaid claim, had placed on record receipts which were issued by the aforementioned society i.e. CMS in the name of Sant Shiromani Sanstha in presence of two independent witnesses. On the basis of the aforesaid facts, it was the claim of the assessee that now when source of investment in the immovable properties was duly explained by him, no adverse inferences was liable to be drawn in his hands. However, as the A.O did not find favour with the explanation of the assessee, therefore, on the basis of his observations recorded at Para 14 of the assessment order, he treated the same as unexplained investments and made an addition aggregating to Rs.17.50 lacs in the hands of the assessee.

8. On appeal, the CIT(Appeals) considering the additional documentary evidence which was placed by the assessee to substantiate the source out of which investment in the immovable properties was claimed to have been made called for a remand report from the A.O. Objecting to the admission of the additional documentary evidence, it was the claim of the A.O that the assessee had only come forth with a cooked up story which did not inspire any confidence, and thus, the same was liable to be rejected. Apropos the affidavit of the *Sah-Sanyojak* of the society, it was the claim of the A.O that the same was not reliable. It was the claim of the A.O that the society i.e. CMS was a benami concern that was driven by the assessee and the entire investments even from sources claimed to have been derived

from CMS deserved to be considered in the hands of the assessee on a substantive basis. Rebutting the report of the A.O, it was the claim of the assessee that (i) the A.O had failed to pin point any defect in the documentary evidence which was placed on record to substantiate that investment in the immovable properties were sourced out of funds of the society i.e. CMS ; and (ii) that there was no basis in the claim of the A.O that the affidavit of *Sah-Sanyojak* was to be rejected. As regards the observations of the A.O that the society i.e. CMS had failed to raise any claim at the stage of provisional attachment of its bank account u/s.281B of the Act, it was the claim of the assessee that as there were charges of money rolling business against him, therefore, members of the society apprehending action against them in case they would have challenged the aforesaid provisional attachment, had thus, refrained from challenging the same. Considering the aforesaid facts, the CIT(Appeals) held a conviction that now when the assessee had duly demonstrated that the investments in the aforesaid immovable properties were sourced from his capital and withdrawals from his current account with CMS, therefore, no addition on the said count was called for in the hands of the assessee. For the sake of clarity, the relevant observation of the CIT(Appeals) is culled out as under:

“5.4 I have gone through the observations of the AO and submissions of the appellant. Admittedly, the compilation of accounts was prepared by the appellant to explain his case on the basis of copies of statements, copies of bank statements, FDR, receipts, copy of vehicle registration certificates, finance documents,

etc. supplied by the AO. The A.O. did not dispute any of the transactions recorded therein. The creditor has also confirmed the transactions through confirmation account and affidavit. Under such circumstances, it cannot be held that the Compilation is not acceptable only for the reason that it was found prepared on freshly generated computer print outs. I have gone through the compilation produced by the appellant. All the details were found to be verifiable from the bank statements and other details supplied by the AO; hence the objection of the AO cannot be entertained. Since the appellant was in jail during the relevant period, there is a reasonable cause for non-compliance earlier. It is trite law that no addition could be made merely on the basis of confession or acquiescence without corroborative material. The appellant has fairly demonstrated that the sources of investments in these assets were from his capital and the balances withdrawn from his current account with CMS and the AO also endorsed the fact that under such circumstances, the issue deserves to be considered in the case of CMS. The case laws relied upon by the appellant also supports his case. The A.O's point that CMS is a benami concern of the appellant is separately adjudicated in the Additional Ground No.4 of this appeal. In this view of the matter, the addition of Rs.17,50,000/- made by the AO is not sustainable, hence deleted. This ground of appeal is accordingly allowed.”

9. Having given a thoughtful consideration to the aforesaid observations of the CIT(Appeals), we are of the considered view, that as observed by him, and, rightly so, now when the assessee had duly demonstrated the investments in the immovable properties were sourced from his capital and withdrawals from his current account with the society i.e. CMS, therefore, there was no justifiable reason for the A.O to have drawn any adverse inferences in the hands of the assessee by holding any part of the same as unexplained investment u/s.69 of the Act. We, thus, in terms of our aforesaid observations, finding no infirmity in the view taken

by the CIT(Appeals), uphold the same. Thus, the **Ground of appeal No.1** raised by the revenue is dismissed in terms of our aforesaid observations.

**B. Re: Addition on account of unexplained investment in movable properties u/s.69 of the Act: Rs.17,67,600/-**

10. Apropos the addition of Rs.17,67,600/- made by the A.O u/s.69 of the Act on account of investments made by the assessee in movable properties, we find that the same was thereafter, vacated by the CIT(Appeals). We find on a perusal of the orders of the lower authorities that the aforesaid addition of Rs.17,67,600/- was made by the A.O, observing as under:

S. No.	Name of the vehicle	Value estimated	Remarks
1.	Two Mazda vehicles	Rs.1,98,800/- Rs.6,48,800/-	As per papers relating to finance filed (Vehicle No.CG-07-C-3081) the cost of vehicle was Rs.6,48,800/- out of which Rs.4,50,000/- was financed by Magma Leasing. Thus source of down payment of Rs.1,98,800/- remained to be explained. For another Mazda Vehicle cost is taken at Rs.6,48,800/- No source of investment has been explained.
2.	Mahendra Scrapio	Rs.2,04,000/-	The assessee stated the value of the vehicle at Rs.7,54,000/- out of which Rs.5,50,000/- was financed by HDFC Bank as per papers relating to finance filed. The remaining amount of Rs.2,04,000/- was paid by the assessee for which no source has been explained. (Repaid Rs.5,60,000/- to HDFC on 30.06.2005)

3.	2 <sup>nd</sup> hand Maruti	Rs.1,40,000/-	Value based on the statement of the assessee. Dt. 09.05.2005
4.	2 <sup>nd</sup> hand Indica	Rs.1,40,000/-	Verification not possible in the absence of any papers. Value taken as stated by the assessee.
5.	2 <sup>nd</sup> Hand Mahendra Tractor	Rs.3,60,000/-	Verification not possible in the Absence of any papers. Value taken as stated by the assessee.
6.	TVS victor	Rs.31,000/-	Value taken as stated by the assessee.
7.	Scooter	Rs.30,000/-	Value taken as stated by the assessee.
8.	Luna	Rs.15,000/-	Value taken as stated by the assessee.
	Total	Rs.17,67,600/-	

As the assessee in the course of the assessment proceedings had failed to substantiate the source of the investment made in the aforesaid movable assets/vehicles, therefore, the A.O had made an addition of the same u/s.69 of the Act.

11. During the course of proceedings before the CIT(Appeals), it transpires that the assessee had come forth with specific explanation as regards the source of investment made towards purchase/downpayment of respective vehicles. It was explained by the assessee that the two mazda vehicles in the name of his wife, viz. Smt. Parwati Shivhare were purchased partly by arranging finance from Magma Fincorp and Cholamandalam DBS Finance. It was stated by him that the down

payment for the purchase of the aforesaid vehicles was sourced out of his capital and withdrawals from current account with CMS. In so far the source of purchase of Mahendra Scorpio was concerned, it was the claim of the assessee that the same was financed from HDFC bank. As regards the other vehicles, it was submitted by the assessee that the same were purchased out of drawings made by him from current account with CMS. The assessee in order to fortify his aforesaid claim, had placed on record copies of registration certificates, statements of finance companies a/w. confirmations of ledger account with CMS. The CIT(Appeals) considering the fact that the assessee had duly substantiated the source of investment towards purchase of vehicles, vacated the addition of Rs.17,67,600/- that was made by the A.O u/s.69 of the Act, observing as under:

“6.2 I have gone through the observations of the AO and submissions of the appellant. The AO did not make any addition with reference to the finance obtained froth finance company in respect of one Mazda vehicle and the evidences regarding finance for other vehicles are not with him. Therefore, he made the addition. The source of investment for down payments and for purchase of other vehicles was stated as met out from the current account withdrawals. In view of detailed discussion made above regarding current account withdrawals, which were confirmed by the creditor, I am of the considered opinion that no addition is called for on this ground. Therefore, the addition made by the AO is deleted and this ground of appeal is allowed.”

12. We have given a thoughtful consideration, and are of the considered view, that now when the assessee in the course of the proceedings before the CIT(Appeals) had on the basis of supporting documentary evidence

duly substantiated the source of his investments made towards purchase of vehicles, therefore, as observed by the appellate authority, and, rightly so, no part of the investments so made by him could have been held to be an unexplained investment u/s.69 of the Act. We, thus, finding no infirmity in the view taken by the CIT(Appeals) uphold the same to the said extent. Thus, the **Ground of appeal No.2** raised by the revenue is dismissed in terms of our aforesaid observations.

**C. Re: Addition on account of unexplained investment in bank account u/s.69 of the Act : Rs.1,24,30,799/- and interest accrued on those deposits : Rs.1,78,210/-**

13. We shall now deal with the grievance of the department that the CIT(Appeals) had erred in deleting the addition of Rs.1,24,30,799/- made by the A.O u/s. 69 of the Act on account of unexplained deposits in the Bank account a/w. interest accrued on the said deposits amounting to Rs.1,78,210/-.

14. As is discernible from the record, the A.O in the course of assessment proceedings had called upon the assessee to put forth an explanation as regards the credits appearing in his bank account as well as those of his wife, Smt. Parwati Shivhare and his minor daughters i.e. Ms. Yogeshwari and Ms. Lalita. As the assessee failed to come forth with any explanation to the satisfaction of the A.O, therefore, the latter made an

addition of the entire amount of the bank deposits a/w. interest that had accrued on the same u/s.69 of the Act, as under:

S. No.	Particulars	Amount Rs.	Interest Rs.
1.	Deposits in bank account in the name of Shri Rajendera Shivhare	84,30,799/-	39,428/-
2.	Deposits in bank account in the name of Smt. Parwati Shivhare wife of Shri Rajendra Shivhare	11,50,000/-	57,364/-
3.	Deposits in bank account in the name of Ku. Yogeswari D/o. Shri Rajendra Shivhare	14,00,000/-	36,633/-
4.	Deposits in bank account in the name of Ku. Lalita, D/o. Shri Rajendra Shivhare	14,50,000/-	44,785/-
	Total	Rs.1,24,30,799/-	Rs.1,78,210/-

15. On appeal, the assessee filed before the CIT(Appeals) the detailed working of deposits on the basis of bank statements supplied by the A.O, and submitted that the total amount of deposits aggregated to Rs.88,92,853/-. Apropos the source of the aforesaid deposits, it was the claim of the assessee that the same were made from his capital and withdrawals from his current account with CMS. In so far the addition of the interest income that had accrued on the aforesaid deposits was concerned, it was the claim of the assessee that it was required to transmit the said interest to CMS. In order to fortify his aforesaid contention, the

assessee had placed on record copy of account of CMS a/w. confirmation letters and affidavit of its *Sah-Sanyojak*. The CIT(Appeals) considering the aforesaid documents called for a remand report from the A.O. Although the A.O did not dispute the claim of the assessee as regards the actual amount of deposits in his bank account, but at the same time he objected to the detailed working of the source of deposits that was filed by the assessee. It was the claim of the A.O that as no books of account were either found during police raids or produced by the assessee during the course of assessment proceedings, therefore, his working as regards the source of the bank deposits had no legs to stand upon. As regards the claim of the assessee that no addition was called for with respect to the interest income as was to be transmitted to CMS, it was the claim of the A.O that as the said interest income had accrued in the bank account of the assessee, therefore, addition was called for in his hands. Rebutting the aforesaid observations of the A.O, it was the claim of the assessee that as at the relevant point of time, he was in jail, therefore, for the said reason, he had no occasion to furnish the aforesaid explanation a/w. supporting documentary evidence in the course of the proceedings before the lower authorities.

16. Considering the aforesaid facts pertaining to the aforesaid issue in the backdrop of the explanation of the assessee, the CIT(Appeals) was of the view that now when the assessee had given complete details of the

source of funds a/w. confirmations and affidavit of the lenders, therefore, no part of the said deposits could have been held as unexplained deposits in his hand. Rejecting the objection of the A.O, the CIT(Appeals) was of the view that transaction in the current account of the assessee with CMS could not be overlooked on technical grounds. As regards the addition of the interest that had accrued on the bank deposits of the assessee, the CIT(Appeals) was of the view that now when the accounts of the borrower and lender i.e. CMS revealed the transactions of receipt and payment of interest, therefore, the aforesaid claim of the assessee that no addition of any part of the same could be made in his hands, could not be rejected. For the sake of clarity, the relevant observation of the CIT(Appeals) is culled out as under:

“7.4 I have gone through the observations of the AO and submissions of the appellant. In view of the detailed discussion made in the operative part of the appeal against additional Ground No.1, the transaction in the current account with CMS cannot be overlooked on technical grounds. Admittedly, the Sant Shiromani Sanstha, a branch of CMS, has received and paid large amount of money from different persons in the process of its activities. In fact, the genesis all the proceedings is the police action taken in this regard. Under such circumstances, it cannot be held that the money relates to the undisclosed income of the appellant. The appellant has given particulars of the source of funds along with confirmation and affidavit of the lender. Thus, the appellant discharged the burden cast on him. In the case of CIT Vs. Orissa Corporation (P) Ltd. (1986) 159 ITR 78 (SC), the Hon'ble Supreme Court has held that the assessee can be asked to prove the source of credit, but not the source of source. Under such circumstances, I am inclined to hold the A.O. is not correct in insisting to assess the bank deposits in the appellant's case on the ground that he could not satisfactorily explain the source. Similarly, the accounts of borrower and lender reveal the transaction of interest receipts and payments, hence, no

addition is possible on this account. Accordingly, the action of AO is not sustainable and the additions made on these counts are deleted and the appeal is allowed on this ground.”

17. We have given a thoughtful consideration, and are of the considered view, that as observed by the CIT(Appeals), and, rightly so, now when the source of the bank deposits had duly been explained by the assessee, therefore, there was no justification for the A.O to have held the same as unexplained deposits in the hands of the assessee. Also, we concur with the view taken by the CIT(Appeals) that now when the account of the borrower and lender duly substantiated the claim of the assessee that interest accrued on his bank deposits were transmitted to CMS, therefore, no addition of the same could have been made in his hands. We, thus, finding no infirmity in the view taken by the CIT(Appeals), uphold his observations on the basis of which he had vacated the additions made by the A.O u/s.69 of the Act towards unexplained bank deposits of Rs.1,24,30,799/- and interest accrued on the said deposits of Rs.1,78,210/-. Thus, the **Ground of appeal No.3** raised by the revenue is dismissed in terms of our aforesaid observations.

**D. Addition on account of unexplained investment in bank account u/s.69 of the Act: Rs.9,03,000/- and interest accrued on those deposits : Rs.40,544/-**

18. We shall now deal with the grievance of the department that the CIT(Appeals) had erred in deleting the addition of Rs.9,03,000/- made by

the A.O on account of unexplained investment in bank account of CMS a/w. interest accrued on the said deposits of Rs.40,544/-.

19. The A.O was of the view that the bank account in the name of CMS was in fact the benami account of the assessee as the credits in the said account were made out of the withdrawals made from the individual bank account of the assessee. Also, the A.O had supported his aforesaid conviction from the fact that the office bearers of CMS had not responded to the provisional attachment of the bank account of CMS that was made by the department u/s.281B of the Act. Rebutting the aforesaid observations of the A.O, it was the claim of the assessee before the CIT(Appeals) that CMS was a society registered under Societies Registration Act since 1985 and was carrying on various activities for which it was formed. It was further the claim of the assessee that the A.O had held CMS as benami of the assessee without conducting any enquiry or bringing forth any cogent and valid material. Apart from that, it was the claim of the assessee that CIT, Raipur had himself issued instructions to treat CMS as a separate entity and necessary orders to the said effect were passed u/s.154 of the Act. Also, it was submitted by the assessee that the CIT(Appeals) vide his order in Appeal No.454/10-11 for A.Y. 2005-06 had treated the CMS as a separate entity.

20. The CIT(Appeals) considering the aforesaid facts called for a remand report from the A.O. It was the claim of the A.O that as the assessee was controlling and doing money rolling business in the name of Sant Shiromani Sanstha, therefore, it could safely be concluded that the bank accounts with CMS were the benami accounts of the assessee. Apropos the claim of the assessee that the CIT, Raipur had passed an order u/s.154 of the Act treating the CMS as a separate entity, it was stated by the A.O that the said order only relates *inter-se* adjustment of taxes and would in no way support the claim of the assessee. As regards the claim of the assessee that the CIT(Appeals) vide his order in appeal No.454/10-11 for A.Y.2006-07 had treated CMS as a separate entity, it was stated by the A.O that the said order had yet not attained finality. Rebutting the aforesaid report of the A.O, it was the claim of the assessee that the A.O had himself passed the order u/s.154 of the Act and held CMS as an independent entity. Apart from that, it was the claim of the assessee that now when the CIT(Appeals) for the immediately succeeding year i.e. A.Y.2006-07, had held, CMS as a separate entity, therefore, there was no justification for the A.O to have held the assessee as the real person behind the society i.e. CMS.

21. Considering the aforesaid facts, the CIT(Appeals) was of the view that the claim of the A.O that the bank account of CMS was benami account of the assessee was merely based on bald allegations which could not be

accepted specifically when the society i.e. CMS was registered under the Societies Registration Act. It was observed by the CIT(Appeals) that the A.O had failed to bring forth any material to connect the assessee with CMS. The CIT(Appeals) was of the view that as the assessee and the society i.e. CMS were two different entities, therefore, the assessee could not have been held to be responsible for the transactions in the bank account of the society. For the sake of clarity, the relevant observation of the CIT(Appeals) is culled out as under:

“8.3. I have gone through the observations of the AO and submissions of the appellant. Admittedly, the activities of CMS and the appellant are different and the AO did not bring forth any material to connect the appellant with CMS. The only relation that has surfaced is that he is maintaining a current account with the society, but it is a general phenomenon in business circles. Hence, it cannot be the sole basis for deciding their inter-se relations. It needs a lot of substance to treat one person as benamidar of other and such finding of fact cannot be affirmed on the basis of bald allegations, especially when the society is a juridical person registered under the Societies Act. The A.O did not bring forth anything beyond allegation either during the assessment proceedings or during the remand proceedings. The CIT(A) order is also in appellant's favour. Therefore, after considering all these facts, I am of the considered opinion that the appellant and the society are two different entities and the appellant is not responsible for the transactions contained in the bank account of the society. Therefore, the additions made on this score are deleted and the appeal is allowed on this ground.”

22. We have given a thoughtful consideration to the aforesaid issue and concur with the view of the CIT(Appeals) that as CMS is a society registered under the Societies Registration Act; and the A.O had failed to place on record any material which would conclusively establish that the

said society was a benamidar of the assessee, therefore, the observation of the A.O which were merely based on bald allegation could not be accepted. We, thus, in terms of our aforesaid observation are persuaded to subscribe to the view taken by the CIT(Appeals), and uphold the same on the basis of which he had vacated the addition of Rs.9,03,000/- a/w. interest accrued on such deposits of Rs.40,544/-. Thus, the **Grounds of appeal Nos.4 & 5** raised by the revenue are dismissed in terms of our aforesaid observations.

23. **Ground of appeal Nos. 6 & 7** being general in nature are dismissed as not pressed.

24. In the result, appeal of the revenue is dismissed in terms of our aforesaid observations.

Order pronounced in open court on 04<sup>th</sup> day of July, 2023.

Sd/-  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**RAVISH SOOD**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 04<sup>th</sup> July, 2023  
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals), Raipur (C.G)
4. The CIT, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,

रायपुर / DR, ITAT, Raipur Bench, Raipur.

6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.