

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'H': NEW DELHI)**

**BEFORE SHRI KUL BHARAT JUDICIAL MEMBER &
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No:- 9259/Del/2019
(Assessment Year: 2015-16)**

The ACIT, Circle-43(1), Civic Centre, New Delhi-110002.	Vs.	Ujala Credit Co-operative Society Ltd., 410, 4 th Floor, C-1,2,3, P.P. Tower, Opposite Max Hospital, Netaji Subhash Place, Pitampura, New Delhi-110034.
PAN No: AAAAU4592L		
APPELLANT		RESPONDENT

Revenue by : Shri Gurpreet Singh, Sr. DR

Assessee by : Shri Naveen Agarwal, CA & Ms. Rema Mohan, Adv.

Date of Hearing : 05.06.2023

Date of Pronouncement : 19.07.2023

ORDER

PER KUL BHARAT, JM

This appeal by the Revenue is directed against the order of Ld. Commissioner of Income Tax (Appeals)-31, New Delhi vide order dated 13.09.2019 for Assessment Year 2015-16. The Revenue has raised the following grounds of appeal:

- "1. Whether the CIT(A) is right, in directing to delete the addition of term deposit liability of Rs. 39,00,44,944/- on the facts and circumstances of the case.*

2. *Whether CIT(A) is right in directing to delete the addition of term deposit liability of Rs. 39,00,44,944/- solely on account of the reason that the AO has not submitted the details of the deposits to be allowed.*
3. *Whether the CIT(A) is right in drawing the conclusion that the identity, creditworthiness of the person who have made deposits and the genuineness of these transactions, in spite of not being so by the AO in his remand reports."*

2. The Only effective ground in this appeal is against deleting the addition of INR 39,00,44,944/-.

3. The present appeal is barred by limitation as there is 17 days delay in filing the present appeal.

4. The facts giving rise to the present appeal are that the Assessee is a Co-operative Society and filed its return of income on 23.09.2015 for the Assessment Year 2015-16 at loss of INR 49,24,004/-. Thereafter the case of the assessee was taken up for scrutiny assessment and the assessment U/s 144 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") was made, thereby, the assessing authority made various additions including disallowance of Term Deposit Liability amounting to INR 39,00,44,944/-and disallowance of Administrative Expenses.

5. Aggrieved against this, the assessee preferred an appeal before the Ld. CIT(A), who, after considering the materials available on record, partly allowed the appeal of the assessee. Thereby, he deleted the addition related to Term Deposit Liability and sustained the other additions.

6. Aggrieved against this, the Revenue has preferred the present appeal before the Tribunal.

7. At the outset, the Ld. Counsel for the assessee contended that the present appeal preferred by the Revenue is barred by time since there is a delay of 17 days for filing of present appeal. He contended that the appeal deserves to be rejected on this ground. However, it was submitted that the impugned addition was deleted on the basis of the remand report of the Assessing Authority. He contended that there is no infirmity into the order of the Ld. CIT(A) and the addition has been deleted on the basis of the remand report of AO. The revenue should have no grievance for adjudication of any dispute before the Tribunal since the AO has accepted the correctness of assessee's claim.

8. On the other hand, the Ld. Sr. DR opposed the submissions and supported the orders of the authorities below. In respect of the delay in filing of the present appeal, the Ld. DR submitted that the same may be condoned. He relied on the judgment of the Hon'ble Supreme Court rendered in the case of *Collector of Land Acquisition vs Mst. Katiji & Ors. 167 ITR 471*. He submitted that looking to the facts that there was reasonable cause for such delay.

9. We have heard the rival contentions and perused the materials available on record. Having considered the submissions made by the Ld. DR, the delay in filing of the appeal is condoned. In respect of the impugned additions, the Ld. CIT(A) has considered in para no. 4.3 to 4.3.1 and deleted the addition by observing as under:

"4.3 Ground no. 5 pertains to addition of Rs. 39,00,44,944/- made on account of unexplained term deposit liabilities. The AO noticed that appellant is a cooperative society with 83 branches all over India registered under Multi State Co-operative Societies Act,

2002 with the objectives to provide credit facilities to its members, to manage loans, promote savings of the members, provide loans etc. Accordingly to fulfill its objectives, the appellant society has obtained deposits under various categories such as recurring deposits(RD), fixed deposits (FD), daily deposits (DD), monthly deposits (MD) and deposits in saving accounts from members totaling to Rs. 39,00,44,944/-. As is evident from the assessment order, the AO made this huge additions merely mentioning that the appellant failed to provide confirmations and to prove identity, genuineness and creditworthiness of the transactions. There is no mention as to whether the AO had issued specific questionnaire on this account including the show cause notice and hence I am of the view that such a huge addition cannot be made without examining each and every deposit vis-a-vis submission of the appellant. Accordingly request for admission of additional evidence u/Rule 46A is accepted in the interest of justice.

4.3.1 It is noticed that in its submission dated 27.02,2019, the appellant had furnished confirmations, name and address and proof of identity of 1054 persons in respect of various deposits in 4 bundles totaling to Rs. 28 Crores. These evidences were forwarded to the AO for examination/cross-verification and/or calling for further details from the assessee regarding additions made. **The AO was specifically required to specify the deposits/items required to be added/disallowed.** In the remand report dated 03.04.2019 which was forwarded to this office through the Range Head* **the AO had categorically stated that all the types of deposits such as fixed deposits, monthly income scheme, DDS deposits, RD deposits, SB deposits etc. were analyzed and tallied with the submissions made by the assessee and were found to match. He had also stated that the additional evidences being confirmations, name and address and proof of identity of 1054 persona were also carefully examined -and each of them , was found to be in order. Thus from the report of AO, it is clear that he is satisfied about the identity and creditworthiness of the depositors and genuineness of the transactions. Since the AO had not specified any of the deposits required to be added, he was again vide letter dated 09.07.2019 was required to verify all the deposits amounting to Rs. 39,00,44,944/-. He was also required to clarify that conditions of section 6\$ are satisfied warranting no addition on this account.** Accordingly, the AO has furnished a detailed report through the Range Head Vide letter dated 07.08.2019 reproduced above

*in para 3.5, In this remand report, the AO has categorically mentioned that total deposits under various categories amounting to Rs. 39,00,44,944/- pertaining to 8780 investors have been examined with reference to the confirmation of the accounts, name, address and proof of identity and the same were found to be order. **He has hot pointed out any deposits which is required to be added u/s 68.** 'The Ld, AR has strongly relied upon the remand reports of the AO, Under these circumstances, I hold that no addition u/s 68 is called for and hence the addition made by the AO on this account at Rs. 39,00,44,944/- is directed to be deleted. Thus, **Ground no. 5** is allowed."*

9.1 From the above finding, it is clear that the Ld. CIT(A) has recorded the fact that the Assessing Officer has satisfied itself about the identity, creditworthiness of the depositor and also genuineness of these transactions. The Revenue has not controverted the findings by bringing any contrary materials on records. Therefore, we do not see any reason to disturb the findings of the Ld. CIT(A), hence, same is hereby affirmed. The grounds raised by the Revenue in this appeal are dismissed.

10. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 19th July, 2023.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Dated: 19/07/2023.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI