

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI NARENDER KUMAR CHOUDHRY, JM

**ITA No. 603/Mum/2023**  
(Assessment Year: 2017-18)

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| Sadanand Co-Op Credit Society<br>Ltd.<br>Keshavji Nagar Near Omkar Chs<br>Bldg. No.3, Bhatti Pada Road,<br>Bhandup West,<br>Mumbai-400 078 | Vs. | Income Tax Officer,<br>Ward 22(1)(2)<br>Room No.336, 3 <sup>rd</sup> Floor,<br>Kautilya Bhavan,<br>C041 to c-43, G Block,<br>Bandra Kurla Complex,<br>Bandra (East),<br>Mumbai-400051 |
| <b>(Appellant)</b>   |     | <b>(Respondent)</b>   |
| <b>PAN No. AAFAS7019D</b>  |     |   |

**Assessee by** : Shri Rajesh Nivankar, Officer of  
Counsel  
**Revenue by** : Mr. Raj Singh Meel, Sr. AR

**Date of hearing:** 07.08.2023  
**Date of pronouncement :** 22.08.2023

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA number 603/M/2023 is filed by the Sadanand cooperative credit society Ltd, Mumbai (the assessee/appellant) for assessment year 2017 – 18 against the appellate order passed by the National faceless appeal Centre, Delhi (the learned CIT – A) dated 30/12/2022 wherein the appeal filed by the assessee against the assessment order dated 20/12/2019 passed under section 144 of The Income Tax Act, 1961 (The Act) by The Income Tax Officer, Ward 26 (3) (4), Mumbai (the AO) for assessment year 2017 – 18 was dismissed.

02. The reason for dismissing the appeal of the assessee was that
- a. In the form number 35 the assessee has mentioned erroneously the assessment year 2014 – 15 instead for assessment year 2017 – 18.
  - b. appeal is also delayed by 52 days
  - c. 3 Notices sent on ITBA portal remained unresponded

The learned CIT – A held that delay is substantial and assessee failed to show any sufficient cause for such delay. Even before the learned CIT – A despite three notices issued by him on ITBA portal no response was received. Therefore the learned CIT – A was also of the view that assessee is not interested in prosecuting this appeal. In absence of any submission on the merits, the learned CIT – A considered the statement of facts and upheld the addition made by the learned AO under section 144 of the income tax act of ₹ 9,129,795/-. Therefore the assessee is aggrieved and is in appeal before us raising following grounds of appeal.

03. The fact shows that assessee is a cooperative credit society having the business of accepting deposits and lending money to and from the members of the society. The cooperative society has been classified as loan giving resource society. The society is governed by the principal of mutuality and it does not hold any banking license from the reserve bank of India and therefore it is eligible for deduction under section 80 P (2) (a) (i) of the act. Assessee did not file any return of income for impugned assessment year.
04. The information was available with the assessing officer in ITA module that assessee has deposited cash during the demonetization period of ₹ 1,534,396 with Mumbai District Central cooperative bank Ltd. On verification it was found that assessee is a non-filer for AY 2017 – 18. Notices were issued to the assessee which were not complied with by the assessee. Further notices under section 133 (6) the act was issued to the Mumbai District Central cooperative bank [



MDCCB] on 9/5/2019 for obtaining bank account in which the assessee has deposited the above stated cash, KYC documents and various other details. In response to that on 22/05/2019, MDCCB submitted the statement for the above assessee along with KYC details. On verification, AO found that Assessee has deposited total cash during financial year 2016 - 17 of ₹ 44,137,380 and cash deposited during the demonetization period of ₹ 1,308,704 and total credits in account other than cash deposit is ₹ 22,347,086/-. The notice under section 142 (1) of the act was also issued to the assessee on 13/05/2019 however the same was not complied with. The assessee was also provided several opportunity of hearing however no response was received. Accordingly learned AO treated the amount of cash deposited from 9/11/2016 to 30/12/2016 of ₹ 1,308,704 as unexplained money under section 69A of the act. The learned AO further found that total cash deposited in the bank account of the assessee during financial year 2016 - 17 is ₹ 42,828,676, he treated 12% of the above deposited as addition under section 68 of The Income Tax Act of ₹ 5,139,441. It was further noted that there are various credits amounting to ₹ 22,347,086 in the bank account of the assessee and therefore the learned AO took 12% of the total credits as unexplained cash and therefore addition of ₹ 2,681,650 was made.

05. Assessment order under section 144 of the act was passed on 20/12/2019 determining the total income at ₹ 9,129,795.
06. The assessee aggrieved with the order of the assessment preferred an appeal before the learned CIT - A. The learned and CIT - A found that the appeal of the assessee is delayed by 52 days, also have the different assessment year and did not respond to the several notices issued, so he confirmed the assessment order by appellate order dated 30/12/2022. Now assessee is in appeal before us.
07. At the time of hearing, an adjournment request was made stating that the learned authorized representative is unwell with throat

infection since a few days and unable to speak. Therefore the matter was requested to be adjourned for further two weeks. We also find that a similar request was made on 16/05/2023 wherein this appeal was called for hearing. Earlier it was stated that AR of the assessee is travelling to United Kingdom and therefore would be out of country till 5 August 2023. On that request the appeal of the assessee was adjourned 27/8/2023. On this date i.e. on 7/8/2023 Mr. Rajesh Nivankar appeared from Ramesh Iyer and associates chartered accountant seeking the adjournment. In the letter of authority issued by the society there were other two chartered accountants, why they did not appear is also not informed. Therefore we do not find any valid reason for granting the adjournment. Shri Rajesh also stated that the order passed by the learned CIT – A is ex parte and similar is the case before the AO. He submitted that if the matter is set aside and societies granted an opportunity of hearing before the lower authorities, the adequate details can be furnished before them and issue may be decided on the merit. Therefore the adjournment request of the assessee was rejected.

08. The learned departmental representative imminently supported the orders of the lower authorities.
09. We have carefully considered the rival contention and perused the orders of the lower authorities. The order of the learned assessing officer is also passed under section 144 of the act without hearing the assessee. Appellate order is also passed in absence of the assessee. No doubt those adequate notices have been issued to the assessee at the time of assessment as well as at the time of deciding the appeal. Those notices were issued on ITBA portal. Assessee is a non-filer. It did not file any return of income earlier also. Therefore the submission of Mr. Rajesh that it did not receive the notices and if given an opportunity would submit the requisite detail before the assessing officer so that proper assessment order can be passed. The learned departmental representative did not object if the issue is restored back to the file of the learned assessing officer with a



direction to the assessee to appear before him and submit the requisite detail. In view of this we set-aside the whole appeal back to the file of the learned assessing officer with a direction to the assessee to submit the requisite detail before the learned assessing officer within 90 days from the date of this order. The learned AO after that may decide the issue on the merits of the case.

010. Further we find that the learned assessing officer as well as the learned CIT – A has issued several notices to the assessee however the assessee did not remain present before them or did not comply with the same. Even before us the assessee has short adjournment under one pretext or another. In view of this, we direct the assessee to deposit ₹ 25,000 as a cost to the Prime Minister National Relief Fund within 15 days from the date of receipt of this order to which Mr. Rajesh readily agreed to deposit such cost immediately.

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

Order pronounced in the open court on 22.08. 2023.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 22.08. 2023

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar



Income Tax Appellate Tribunal, Mumbai