

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

**BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2801/Del/2023
(ASSESSMENT YEAR 2017-18)**

River Heights Phase-1 Association of Apartment Owner, 3BA, 7/3 Tower No. 47 River Height, Raj Nagar Extn., Ghaziabad Uttar Pradesh-201 001 PAN-AABAR 6041A	Vs.	Income Tax Officer Ward-2(2)(2) Ghaziabad
(Appellant)		(Respondent)

Assessee by	Sh. Akhilesh Kumar, Adv.
Department by	Sh. Om Parkash, Sr. DR

Date of Hearing	17/01/2024
Date of Pronouncement	17/01/2024

ORDER

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Ld. CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2023-24/105495345(1) dated 08/08/2023 against the order passed by Income Tax Officer, Ward-2(2)(2), Ghaziabad (hereinafter referred to as the 'Ld. AO') u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 18/12/2019.

2. The assessee has challenged the addition made on account of cash deposit of Rs.20,82,000/- in the bank account during the demonetization period and addition made on account of other credit entries in the bank account @ 8% thereon.

3. I have heard the rival submissions and perused the materials available on record. The assessee is a Residential Welfare Association (RWA). The assessee collects maintenance charges from the flat owners and utilizes the same for the purposes of maintenance of the flats through its association. Since, the amounts received are from the members and services are in turn rendered also to the members, income earned by the association would be exempt on the principle of 'Mutuality'. There was no taxable income for the assessee and, accordingly, no return of income was filed voluntarily by the assessee for the year under consideration. The Ld. AO stated that notices u/s 142(1) of the Act were issued on two occasions as mentioned in page-2 of the assessment order electronically and the assessee claimed that those notices were not received by them. Hence, no compliance was made before the Ld. AO which enabled the Ld. AO to add the entire cash

deposits made during the demonetization period in the bank account of the assessee in the sum of Rs.20,82,000/-.

4. Apart from this, in respect of other credit entries, the Ld. AO added the estimated profit at 8% and brought to tax the same. No appearance was made by the assessee before the Ld. CIT(A) which led the Ld. CIT(A) to confirm the order of the Ld. AO.

5. Considering the fact that assessee is a Resident Welfare Association where its income is exempt on the principle of 'Mutuality', I deem it fit and appropriate to restore the entire appeal qua the issues raised before us, to the file of Ld. AO for denovo adjudication in accordance with law. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 17th January, 2024.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 17/01/2024
Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI