

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

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|---------------------------|
| ITA No.1048/Bang/2023     |
| Assessment Year : 2017-18 |

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|---|-----|--|
| M/s Brahmi Credit Co-op<br>Society Ltd.,<br>No.1030, Dr. Rajkumar Road,<br>4 <sup>th</sup> 'M' Block, Rajajinagar,<br>Bengaluru-560 010.<br><br><b>PAN : AABAB 6090 M</b> | Vs. | The Income Tax Officer,<br>Ward-2(2)(2),<br>Bengaluru. |
| APPELLANT   |     | RESPONDENT   |

|             |   |                         |
|-------------|---|-------------------------|
| Assessee by | : | Shri GS Prashanth, C.A  |
| Revenue by  | : | Shri V Parithivel, JCIT |

|                       |   |            |
|-----------------------|---|------------|
| Date of hearing       | : | 19.03.2024 |
| Date of Pronouncement | : | .03.2024   |

**ORDER**

**PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi dated 16/10/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1057103021(1) for the assessment year 2017-18.

2. The assessee challenged the sole and substantive issue raised on various grounds relates to challenging the addition made u/s 68 of the Act in regard to cash deposited during demonetization period into the bank account of the assessee.

3. The brief facts of the case are that the assessee is a co-operative society registered under Karnataka Co-operative Societies Act, 1959 and engaged in extending credit facilities to its members. The assessee filed its return of income for the assessment year 2017-18, electronically on 28/10/2017, declaring total income of Rs.Nil after claiming deduction u/s 80P to the extent of Rs.64,14,194/-. The case was selected for scrutiny and statutory notices were issued to the assessee.

4. The main issue raised in this appeal is cash deposits made during the demonetization period. During the course of assessment proceedings, the AO noticed that the assessee had deposited cash during the demonetization period. As per Central Govt. Notification in F.No.10/03/2016-Cy.I dated 08.11.2016, the assessee was not eligible for accepting cash in old currency (SBNs). Accordingly SBNs deposited by the assessee after 08.11.2016 becomes unexplained in the hands of the

assessee as there was no value to the SBNs collected by the assessee. The assessee submitted that the cash has been received from the members only and it was deposited in the bank accounts of the assessee, The source, identity were explained, therefore, it can be treated as unexplained money. The AO noted that as per RBI letter dated 08.11.2016 & Govt. of India Gazette Notification dated 08.11.2016 the assessee was not designated/authorized by the RBI to collect such SBNs. Accordingly, the AO added it u/s. 68 and taxed it at special rate u/s. 115BBE of the Act.

5. On appeal, the CIT(A) upheld the action of the AO. Aggrieved, the assessee is in appeal before the Tribunal.

6. The ld. AR submitted that during the demonetization period, the assessee accepted cash deposits from its members for depositing in accounts, loan accounts, SBs A/c, and different accounts maintained with the assessee. The collection of money from the members was in the ordinary course of business. The assessee did not get any financial benefit as alleged by the AO because the money was deposited in the members accounts only. After submitting the details of the members no further information was sought by the AO, accordingly, the assessee discharged the very purpose of section 68.

Therefore section 68 will not apply in the hands of the assessee. He further submitted that RBI had issued a series of Circulars and when it came to the notice of the assessee in regard to Circular/Notification issued on 14.11.2016, the assessee did not accept any deposits in SBNs. He further submitted that on 14.11.2016 a Notification was issued that the DCC Banks were prevented from accepting money from the members and it was issued in the evening applicable from 15.11.2016. Thereafter, since 15.11.2016, the assessee has not accepted any money in SBNs. Therefore, the addition made by the AO u/s. 68 does not survive. In support of his arguments, he relied on the following judgments:- 1) Merchants Credit Co-operative Society Ltd. Vs. ITO in ITA No.329/Bang/2023 dated 24.08.2023 2) Bhageeratha Pattina Sahakara Sangha Niyamit Vs ITO ITA 646/Bang/2021 TS-5362 ITAT 2022 (Bang) 3) Prathamik Krushi Pattina Sahakari Sangh Niyamitha Vs ITO ITA 593/Bang/2021 and 4) ITA No.22/Bang/2023 in the case of M/s Vyavasaya Seva Sahakara Bank Ltd., vide order dated 05.06.2023.

7. The ld. DR strongly relied on the orders of lower authorities and strongly submitted that the assessee was not authorized to collect the SBNs in the demonetization period. Therefore, both the authorities were justified in

making addition and applying special rate of taxes. The CIT(A) has dismissed the appeal of the assessee observing that the assessee has not discharged the burden of proof lies on the assessee to explain the nature and source of bank deposits.

8. After considering the rival submissions, we note that during the demonetization period the assessee has deposited cash of Rs.58,69,500/- in the Karnataka State Co-operative Apex Bank of Rs.12,00,000/-, Rajaji Nagar Co-operative Bank Rs.9,00,000/-, Axis Bank of Rs.20,69,500/- and in BDCC Bank of Rs.17,00,000/-. The assessee submitted before the Revenue authorities that the amounts have been received from members. However, both the authorities below have not accepted that the assessee has not discharged, the onus lies on the assessee as per sec. 68 of the Act. During the courses of arguments, the assessee submitted that the amount received during 08/12/2016 to 14/11/2016 were deposited in the different bank account of the members maintained with the assessee society and the cash received were deposited in the assessee's bank account maintained with other banks . As per the opinion of the ld.AR that the assessee has discharged the onus as per sec. 68 of the Act. During the course of hearing the ld. AR of the assessee relied on the

decision of the Co-ordinate Bench in case of Merchants Credit Co-operative Society Ltd., in ITA No. 329/Bang/2023 order dated 24.08.2023. in which it has been held as under:

*“7. We have considered the rival submissions. The assessee is a credit co-operative society dealing with the members only. During the demonetization period the members of the society have deposited cash in pygmies a/c, SB A/c, loan a/c. etc. The assessee has produced a list of depositors and the amount deposited by members with denominations of currency. The assessee has accepted the deposits from its members from 9.11.2016 to 14.11.2016. As per Gazette Notification of RBI & Govt. of India dated 08.11.2016, the assessee was not authorized to accept cash deposits in SBNs. The AO observed that the assessee was not authorized to receive or collect money in SBNs of Rs.1,000 and Rs.500 which were not in legal tender w.e.f. 09.11.2016 and such transactions on or after 09.11.2016 cannot be entered in cash book. The cash deposits made by the members of the society had no value as such. The Assessing Officer issued show-cause notice by observing that the impugned amount should be treated as income of the assessee u/s 69A of the Act., however the AO made addition u/s 68 of the I.T. Act. The assessee has satisfied the requirement of section 69A of the Act and the AO did not give further opportunity to the assessee for addition u/s 68 of the I. T. Act. During the assessment proceedings, assessee filed the details of list of depositors and loanees who made cash deposits. The AO accepted that it was money deposited by the members and noted that the assessee had brought the entries in its books of account, therefore section 68 will apply and accordingly treated it as income u/s. 68. There is no doubt that the assessee has satisfied the identity of the deposits, who are members of the society and genuineness of the transactions because the amounts have been deposited in the members accounts only. If the AO had any doubts that the assessee has not satisfied the ingredients of section 68, he could have asked further details from the assessee, but the AO has not done the same, which clearly shows that the assessee has discharged its duty to satisfy the requirement of section 68. We further note that the SBNs have been*

*deposited in the members accounts, accordingly, the assessee did not get any extra benefit as observed by the AO in his order at para No. 06 which was treated as income u/s 69A of the Act. In view of this, the provisions of section 68 is not applicable in the present facts of the case and the AO without discussing in detail has made addition u/s. 68 which is not proper. Therefore the addition is deleted.”*

9. Since in this case, the assessee has placed the document in paper book page nos.138 to 144, which is a details of members from whom the amounts have been received by the assessee during the period from 10/11/2016 to 14/11/2016. We noted that the assessee has given name and address of the members, M.No, cash received, date of receipt and in some cases PAN or Aadhar Nos. but the assessee not provided the account and also the assessee has not provided the details of account nos. and PAN or Aadhar No. in respect of all the members & in currency/denomination. As per the certification of the paper book, these details were furnished before both the authorities below. However, they have not examined the same. Therefore, it is directed to the assessee to provide above details and also what we have noted from the paper book page nos.138 to 144. The AO is directed to decide the issue after considering the above judgment and also to give reasonable opportunity of being heard to the assessee. Accordingly, this issue is allowed for statistical purpose.

10. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced on the 22<sup>nd</sup> day of March, 2024 in the open court.

Sd/-  
**(GEORGE GEORGE K)**  
Vice President

Sd/-  
**(LAXMI PRASAD SAHU)**  
Accountant Member

Bangalore,  
Dated : 22.03.2024.  
Vms

Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore