

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 877/MUM/2024 (A.Y: 2015-16)**

Shri Shankar Souhardha Pattina Vs. The Commissioner of
Sahakari Niyamit Income Tax (Appeals)
Shankar Math, Near Datt Mandir, National Faceless Appeal
Brahampur, Gulbarga, Karnataka Centre, North Block, Delhi -
- 585103. 110001.

PAN: AAGAS2375B

(Appellant)

(Respondent)

Assessee Represented by : Shri. Rajesh S. Shah
Department Represented by : Shri. Ashok Kumar
Ambastha – Sr. AR
Date of conclusion of Hearing : 30.05.2024
Date of Pronouncement : 05.06.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 04.12.2023 of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2015-16.



2. The facts in brief are that as per the specific information, the assessee had carried out following transactions during the F.Y. 2014-15 relevant to the A.Y. 2015-16.

<i>Financial Transaction description</i>	<i>Name of the Bank</i>	<i>Account No.</i>	<i>Amount In Rs.</i>
<i>Deposited cash of Rs. 10,00,000 or more in a saving bank account</i>	<i>IDBI BANK LIMITED</i>	<i>0876104000023427</i>	<i>2,86,89,300</i>

3. The assessee had not filed Return of Income for A.Y. 2015-16 and for that reasons the sources of cash deposits in bank account remained unexplained. proceedings u/s 148 was initiated and an opportunity was given to the assessee to explain the income chargeable to tax which has escaped assessment for the Assessment Year 2015-16. Since the assessee had not filed any reply, it was logically concluded that he had no proper explanation with respect to the above cash transactions. Accordingly, order u/s 148A(d) of "the Act" was passed on 30.03.2022. Sufficient opportunity was granted as detailed in para no. 2 of the assessment order. Subsequently, the assessee has filed return of income on 4.11.2022 as per provisions of section 148 of "the Act" declaring total income at Rs. Nil. Since the assessee has not complied the notice under section 142(1) and show cause notice was given and last opportunity was afforded before completing the assessment under



section 144 of "the Act". Since assessee has completely failed to respond to the various notices, therefore, the assessment order was passed under section 144 of "the Act" r.w.s. 147 and 144B of "the Act". Accordingly, the total income as per return filed on 04.11.2022 i.e., Rs. 2,86,89,300/- was treated as unexplained money under section 69A for the A.Y. 2015-16. Accordingly, notice of demand under section 156 of "the Act" was issued and penalty proceedings under section 271(1)(c) has been initiated separately.

4. Against this order dated 04.03.2023 of the Ld. AO, Assessment Unit, an appeal was filed before the Ld. CIT(A) challenging the addition of Rs. 2,86,89,300/- as income of the appellant society by the Ld. AO. Before the Ld. CIT(A) the appellant wanted to file additional evidence, however, as per Ld. CIT(A), the appellant has failed to make out a case for additional evidence under Rule 46A and hence not allowed to file additional evidence. The Ld. CIT(A) has dismissed the appeal, the said order of the Ld. CIT(A) is challenged in the present appeal on the following grounds: -

- a. *"The ld. AO erred in holding that, an amount deposited with bank Rs. 2,86,89,300 as the income of the appellant society by invoking the provisions of sec. 69A, because the cash deposit is not covered as income u/s. 2(24) of the Act.*
- b. *The ld. AO erred in holding that, a sum of Rs. 2,86,89,300 as its income, when it is obviously available on the record that, the cash was deposited with IDBI Bank. Therefore, your appellant*



prays that, the addition made to the returned income may please be deleted.

c. The ld. AO erred in invoking the provisions of sec. 115BBE, tax on special income, when it is not an income at all of the appellant.”

5. Before opening the argument, the Ld. AR on behalf of Appellant/assessee has informed the Tribunal that he had filed this appeal online with the request to be listed before the Hon'ble ITAT, Bangalore Bench but he is not aware as to how the same has been listed before this Bench, at Mumbai. The Ld. Counsel has made a request to transfer the case to Bangalore Bench of Hon'ble ITAT.
6. When it was pointed out to the Ld. AR that there was no jurisdiction with this bench to transfer the case as requested, the Ld. Counsel sought adjournment for next date for seeking necessary instructions and to move an application for withdrawal of the present appeal with the liberty to file the same in the appropriate forum.
7. At the time of hearing of the appeal on 30.05.2024, the Ld. Advocate for the appellant has moved an application with the subject *“transfer of case before ITAT Mumbai Bench to Karnataka Bench or request to permit to withdraw the case.”* The contents of the application are as under:

“The Appellant hereinabove filed an appeal online before the ITAT against the order passed against it u/S.250 of the Income Tax Act dated 04/12/2023 bearing the above number. The said



appeal was allotted to Mumbai bench despite the fact that the registered office of the Appellant is located in Shankar Math, near Datt Mandir, Brahampur, Kalaburagi (Gulbarga) 585103. The said address has been stated in the order passed u/S. 250 itself. It is humbly stated that it would be highly convenient for the Appellant and for its advocate to appear and argue the matter in Bengaluru. It is further humbly state that the Bengaluru Bench of the ITAT has jurisdiction on the above filed appeal as the Appellant is located in the state of Karnataka. The said appeal may have been allotted to the Mumbai bench by oversight.

Further it is humbly requested to permit me to withdraw the case with reserve the right to file appeal in Bangalore Bench of the Income Tax Appellate Tribunal.

Wherefore it is humbly requested that the above appeal be transferred or permit to withdraw.”

8. We have heard the Ld. Counsel/AR on behalf of the assessee/appellant who would submit that since the jurisdiction in the matter is with the Bangalore Bench of the Income Tax Appellate Tribunal, and therefore this appeal may be permitted to be withdrawn with the liberty to file the same before the Hon'ble Bangalore Bench of the Income Tax Appellate Tribunal.
9. We have also heard the Ld. DR on behalf of the revenue who has no objection to the withdrawal of the appeal with the liberty sought by the appellant.
10. In view of the contents of the application as reproduced above, the present appeal is accordingly dismissed as withdrawn with the liberty



to the appellant to file the same before the appropriate forum as per law.

11. The appeal is accordingly dismissed as withdrawn.

12. In the result, appeal filed by the assessee is dismissed in the above terms.

Order pronounced in the open court on 05.06.2024

**Sd/-/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)**

**Sd/-/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)**

Mumbai / Dated 05.06.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai