

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 690/Bang/2024
Assessment Year : 2017-18

M/s. Jananidhi Souharda Co- operative Ltd., No. 603/1, Varshinchara Complex, Bone Mill Bus Stop, Nagasandra Post, Hesarghatta Road, Seededahalli, Bangalore – 560 073. PAN: AABAJ4557B	Vs.	The Income Tax Officer, Ward – 6(2)(5), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri V. Parithivel, JCIT-DR

Date of Hearing	:	16-05-2024
Date of Pronouncement	:	05-06-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the assessee is directed against the CIT(A)/NFAC order dated 25.02.2024 vide DIN & Order No.

ITBA/NFAC/S/250/2023-24/1061476442(1) passed u/s. 250 of the IT Act, 1961 for A.Y. 2017-18.

2. The assessee has raised the following grounds.

“1. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in dismissing the appeal and that too without appreciating fully and properly the facts and the circumstances of the case.

2. On the facts and in the circumstances of the case and in law, the learned CIT. (A) erred in dismissing the appeal and that too without considering the submission dated 01-08-2023 and the subsequent letter dated 22-2-2024.

3. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in dismissing the appeal and thereby confirming the action of the learned A.O. in making an addition of an amount of Rs.5,70,98,655/- u/s 69A of the Act.

4. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in confirming the action of the learned A.O. in charging interest u/s 234A of the Act.

5. On the facts and in the circumstances of the case and in law, the learned C.I.T. (A) erred in confirming the action of the learned A.O. in charging interest u/s 234B of the Act.

The Appellant craves leave to add, alter, amend or delete any or all of the Grounds of Appeal at any time.”

3. The brief facts are that based on the information in respect of Cash Deposits during the demonetization period, as per the information uploaded in FIU — NMS, it was learnt that the assessee had made cash deposits during the year as well as during the demonetization period from 09.11.2016 to 30.12.2016 as detailed below: -

SL NO	NAME OF THE BANK & BRANCH	ACCOUNT NO	TYPE OF A/C	AMOUNT OF DEPOSIT in Rs
1	Axis Bank, Rajai Nagar Branch	914020006149011	Current	1327500
2	Axis Bank, Tumkur	913020054079864	Current	627400
3	Axis Bank, Chitra Durga	914020008679435	Current	819530
4	Axis Bank 8 th mile Tumkur Rd	915020059579774	Current	24,23,025
5	Axis Bank, Tiptur	914020013166720	Current	266000
	Total			5463455

4. As the assessee failed to file the ITR for the Asst. Year 2017-18 within the due date u/s 139(1) of the I.T. Act, 1961, therefore, in view of the information regarding the substantial cash deposits made during the demonetization period, notice u/s 142(1) dated 23.11.2017 was issued and served upon the assessee requiring the assessee to file return of income by 11.12.2017. However, there was no compliance from the assessee. Further opportunities were provided to the assessee by way of issue of notices/letters to explain the nature and source of the above deposits. Details of hearing notices and response to the taxpayer are as given below —

SL NO	NOTICE/LETTER/SHOW CAUSE NOTICE	POSTING THE CASE FOR HEARING /ON-LINE COMPLIANCE	ASSESSEE'S COMPLIANCE
1	Notice u/s 142(1) dt 11/12/2017	10/1/2018	Not complied
2	Notice u/s 142(1) r.w.s 129 dt 5/7/2019	10/7/2019	Not complied
3	Notice u/s 142(1) dt 10/9/2019	16/9/2019	Not complied
4	Notice u/s 142(1)dt 16/10/2019	22/10/2019	Not complied
5	Show cause dt 12/12/2019	14/12/2019	Partly complied

5. Further as there was no compliance from the assessee information was obtained from the banker as per the information uploaded in F1U-NMS by issue of notice u/s 133(6) of the I.T. Act, 1961. On perusal of the bank statements, it is noticed that the bank statement of ICICI Bank with current a/c no: 015905500642 pertains to M/s. Nawaz and Co., On perusal of the bank statements, it is noticed that the assessee made the following cash deposits during the demonetization period: -

SL NO	NAME OF THE BANK	CASH DEPOSITED DURING 9/11/2016 TO 30/12/2016	CASH DEPOSITED DURING FY 2016-17	OTHER CREDITS	TOTAL CREDITS DURING FY 2016-17
1	Axis Bank current ac no 913020054079864	623000	846600	749913	3219513
2	Axis Bank ac no 914020006149011	505500	8134500	13511560	22151560

3	Axis bank current ac no 914020008679435	695800	30298132	3162527	34156459
4	Axis bank current ac no 915020059579774	2424000	2547025	4863266	9834291
5	Axis bank current ac no 913020029895031	470000	1245842	1874841	3590683
6	Axis bank current ac 914020013166720	266000	13026556	70000	13362656
	TOTAL	4984300	57098655	24232107	86315062

6. The data received from the bank is treated as the correct data. The summary of total credits in the assessee's Bank account on account of cash deposits and by other modes of transactions are as under:

SL NO	PARTICULARS	AMOUNT (RS)
1	Cash deposits during demonetization period 9/11/2016 to 31/12/2016	4984300
2	Cash deposits during the year (other than demonetization period)	57098655
3	Other credits	24232107
	TOTAL	86315062

7. The Assessee was issued notice to explain the nature and source of the above deposits. As the Assessee failed to furnish the details as called for with regards to source of cash deposits & also not filed any Return of Income, the Ld. AO treated the cash deposits of Rs.5,70,98,655/- as unexplained money U/s 69A of

the I Tax Act, 1961. The Ld. CIT(A) upheld the addition of Rs. 5,70,98,655/- by dismissing the Appeal.

8. Aggrieved by the Order of the Ld. CIT(A), the Assessee has filed the present Appeal before the Tribunal. At the time of hearing, we noticed that the assessment order is ex-parte and accordingly the Ld. AO passed the Assessment Order u/s. 144 of the IT Act, 1961. Further, the NFAC upheld the same for want of information / details by holding that addition of Rs.5,70,98,655/- which represents cash deposit during the entire year is upheld since the source of the Demand Draft could not be satisfactorily explained before the appellate authority. The Ld.CIT(A) also observed that even though the assessee says name, PAN and address of the persons who had brought in money through a Demand Draft is evidenced, the DD has to be only from members. The other sources like loan repayment, FDs only form a small component of the money brought in during the year and taking into account these factors, the addition of Rs.5,70,98,655/- u/s. 69A was upheld. Being so, we are of the opinion that in the interest of justice and fair play, we remit the entire issue in dispute to the file of Ld. AO for fresh consideration and to decide the same in accordance with the law after giving opportunity of being heard to the assessee. The Assessee is directed to co-operate with the Proceedings before the Revenue Authorities and to file the relevant submissions/documents which would be essential and required by the revenue Authorities for proper adjudication of the case. We clarify that in case of

further default, the assessee shall not be entitled for any leniency.

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

Order pronounced in the open court on 05th June, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 05th June, 2024.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore