

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4282/MUM/2023
Assessment Year: 2017-18**

Daulat Sahakari Patpethi Maryadit 48/67, 2 nd Floor, Noor Manjil, Trimbak, Parshuram Street, 6 th Kumbharwada Lane, Mumbai – 400004 (PAN : AAAAD8912D)	Vs.	Commissioner of Income Tax (Appeal)- 30, Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Ms. Jigna Jain, CA
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 12.06.2024
Date of Pronouncement : 21.06.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2023-24/1056602521(1), dated 27.09.2023 passed against the assessment order by Income Tax Officer, Ward-19(1)(4), Mumbai, u/s. 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 31.10.2019 for AY 2017-18.

2. Grounds taken by the assessee are reproduced as under:

1. *On the facts and circumstances of the case the Learned CIT (A) erred in Confirming order of the Assessing Officer and treating entire credit entries in bank account of Rs.1,86,30,859 as unexplained money u/s 69A of the Income Tax Act, 1961. The appellant submits that treatment is not justified and against the facts and circumstances of the case.*
2. *The Learned Assessing Officer has considered Total Income Rs.1,86,30,859/- without considering nature of receipts of Rs. 1,86,30,859/- which is in relation to amount received from members of the assessee credit society towards repayment of loan & share capital.*
3. *The Learned Officer has erred in Levying penalty proceedings U/s 271AAC as applicable. The appellant denies the liability of the credit entries in bank account including cash deposits of Rs. 29,79,000/- which is termed as unexplained money on the facts and circumstances of the case. The appellant submits that the income computed and termed as unexplained money and on which penalty has been levied is not justified and be deleted.*
4. *The order passed by the learned I.T.O. as well as CIT (A) is bad in law and against facts and circumstances of the case.*

3. Brief facts of the case are that assessee is a cooperative credit society registered under Maharashtra Cooperative Societies Act, 1960 carrying on the business of accepting deposits and giving credit facilities to its members. Assessee did not file its return of income. Information was received on the ITBA module in respect of deposit of cash of ₹ 29,79,500/- in the bank account of the assessee during the demonetisation period. Assessing officer issued notice u/s. 142(1) calling for details of the assessee. Since the assessee failed to file the return of income and submit any details in response to the said notice, the assessing officer resorted to completing the assessment u/s. 144 of the Act. In the impugned assessment order, Ld. Assessing Officer noted that assessee made partial compliance to the statutory notices issued by him. He also noted about the submission made by the assessee with few details vide show cause notice dated 24.09.2019. According to the Assessing Officer, since assessee did not furnish complete details, while completing the *ex parte* assessment, he observed that total credits appear in the bank accounts of the assessee is of ₹

1,86,13,859/- which includes cash deposit of ₹ 29,79,000/-. He treated this as assessee's unexplained money u/s.69A of the Act and added it to the total income of the assessee. Aggrieved, assessee went in appeal before the CIT(A).

4. From the perusal of the order of Ld. CIT(A), we note that four dates of hearing were fixed in which neither any written submissions were filed in support of grounds of appeal nor any adjournment applications were made. Accordingly, he held that assessee has no evidence to substantiate the grounds taken by it and thus concurred with the view of the Assessing Officer and dismissed the appeal of the assessee. Aggrieved, assessee is in appeal before the tribunal.

5. Before us, Ld. counsel for the assessee pleaded for remanding the matter back to the file of the Ld. CIT(A). Ld. Sr. DR objected for the remand since assessee has failed to meet its submission at all stages.

6. We heard the rival contentions and perused the material on record, we find that there are partial submissions made by the assessee in the course of assessment proceedings which the Assessing Officer has taken note of. However, at the first appeal stage there is no compliance by the assessee. Since the assessee is a registered cooperative society providing credit facilities to its members and has made certain partial submissions before the Assessing Officer, in the interest of justice and fair play, we find it appropriate to accept the prayer made by the Ld. Counsel of the assessee and remit the matter back to the file of the Ld. CIT(A) for *de novo* meritorious adjudication of the grounds of appeal taken before him. We direct the ld. CIT(A) to provide reasonable opportunities to the assessee for making his submissions and also call for remand report from the Assessing Officer, if so required. We direct the assessee also, to be diligent in attending the hearings fixed for the appeal and assist in its expeditious and effective disposal. Assessee

should not seek adjournments unless warranted by compelling reasons.

7. In the result, the appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 21 June, 2024

Sd/-
(Narender Kumar Choudhry)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 21 June, 2024

MP, Sr.P.S.

Copy to :

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai