

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

ITA No.551/Bang/2024
Assessment Year : 2017-18

M/s. Christian Multipurpose Co-operative Society Ltd., Mathias Tower I G Road, Chikmagalur – 577 101. PAN : AABAC 7847 F	Vs.	ITO, Ward – 1, Chikmagalur.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Varun Bhat, CA
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	24.06.2024
Date of Pronouncement	:	25.06.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the order of CIT(A) dated 29.02.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2017-18.

2. The solitary issue that is raised is whether CIT(A) is justified in confirming the addition of Rs.26,26,300/- under section 69 r.w.s. 115BBE of the Act. Assessee is a co-operative society registered under the Karnataka Co-operative Societies Act, 1959. In the statement of facts, it is claimed that assessee is engaged in the business of providing credit facilities to its members. Assessee did not file the return of income for the relevant Assessment Year i.e., Assessment Year

2017-18. It was noticed that assessee had made substantial amount of cash deposit during the demonetization period. Hence, the assessment was selected for scrutiny and notices were issued under section 143(2) / 142(1) of the Act. Since there was no response to the various notices issued under section 142(1) of the Act, assessment was completed under section 144 of the Act vide order dated 26.09.2019. In the said Assessment Order, cash deposits aggregating to Rs.26,26,300/- in CDCC Bank, Chikmagalur and Indian Overseas Bank during the demonetization period was brought to tax under section 69 of the Act. The AO also applied special rate of taxation under section 115BBE of the Act. The relevant finding of the AO with regard to addition made under section 69 of the Act reads as follows:

*“1. **Unexplained investment** : On perusal of the information available on records, it is seen that the assessee has made cash deposits aggregating to Rs. 26,26,300/- in CDCC Bank, Chickamagaluru and Indian Overseas Bank during demonetisation period. In view of the above discussion, it is held that the assessee has neither filed return of income for A.Y. 2017-18 nor furnished the details regarding the nature and source for cash deposits made during demonetisation period and therefore in the absence of any explanation from the assessee the cash deposits made during the demonetisation period amounting to Rs. 26,26,300/- is treated as unexplained investment of the assessee brought to tax u/s. 69 of the Income Tax Act, 1961 under the head Income from Other Sources and taxable under the provisions of Section 115BBE of the Income Tax Act, 1961.”*

3. Aggrieved, assessee filed appeal before the CIT(A). The CIT(A) rejected the contention of the assessee by observing as under :

*“3. **Ground no.3 pertains to the addition of Rs.26,26,300/- u/s. 69 of the Income Tax Act.***

Upon perusal of the case records it is observed that the appellant has made cash deposits in bank accounts held with M/s. Indian Overseas Bank, Chikmagalur and M/s. CDCC Bank, totaling to Rs. 26,26,300/-. In its submissions the appellant has stated that the relevant proof of cash

received from its members is available with the appellant but it was neither provided during assessment proceedings nor during appeal proceedings. The submissions so received from the appellant are general in nature and includes factual information only. Specific documentary evidences i.e. Pan Number of members, cash receipts, books of accounts etc. are not made available during appeal proceedings. In the absence of documentary evidences, it neither possible to ascertain the portion of cash received from members nor the objectives of receiving such amount. I am thus constrained to uphold the additions made by the Id. AO amounting to Rs. 26,26,300/- u/s. 69 of the Income Tax Act.”

4. Aggrieved by the Order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed two sets of Paper Books, one set of Paper Book comprising of the case laws relied on. In the other Paper Book comprising of 56 pages assessee has enclosed the details of members with respect to the cash received during the demonetization period, the audited financial statements, bank account details, etc. The learned AR submitted that the members of the assessee co-operative society had directly deposited small amounts in its bank account for repayment of loans and interest / EMIs. It is submitted that there is no other transaction. It was prayed that to substantiate this aspect of the matter, the loan account extracts / ledger extracts of the parties can be furnished. It was prayed that in the interest of justice and equity, the matter may be restored to the files of the AO to examine the source of cash credits. It was submitted that contravention of the notification issued by the RBI for accepting the SBNs during the demonetization period is not relevant criteria for examination. It was submitted that only relevant criteria for examination is the source of cash deposit. In this context, the learned AR relied on the Order of the Bangalore Bench of the Tribunal in the case of Mahaveera Minority Credit Co-operative Society Ltd., Vs. ITO in ITA No.528/Bang/2024 (order dated 13.06.2024).

5. The learned Standing Counsel supported the Orders of the AO and the CIT(A).

6. We have heard the rival submissions and perused the material on record. Assessment in this case has been completed under section 144 of the Act since assessee did not respond to the several notices issued under section 142(1) of the Act. Before the CIT(A), assessee had made appearance. However, the details of the members who had deposited cash in assessee's bank account for repayment of loans / EMIs were never submitted to the CIT(A). Therefore, he confirmed the addition under section 69 of the Act. It is to be mentioned the important aspect to be examined in the case of cash deposit is whether the source of the same has been properly examined. It is a case of the assessee that all the cash deposits have been made by its members in repayment of their loans / EMIs. In the interest of justice and equity, I am of the view that the matter needs to be restored to the files of the AO. Accordingly, the issue raised in this appeal as regards the addition made under section 69 of the Act is restored to the AO. The assessee is directed to furnish necessary details as regards the source of cash deposit before the AO. The AO is directed to follow the principles given in the directions of the ITAT Order in the case of Mahaveera Minority Credit Co-operative Society Ltd., Vs. ITO (supra). It is ordered accordingly.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 25.06.2024.

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Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR, ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.