

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "डी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" D " BENCH, AHMEDABAD

सुश्री सुचित्रा काम्बले, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।
BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

आयकर अपील सं./ITA No.788/Ahd/2023
निर्धारण वर्ष /Assessment Year : 2017-18

The Income Tax Officer Ward-1 Gohra - 389 001	बनाम/ v/s.	The Luxmi Co-op. Credit Society Ltd. Station Road, Godhra Panchmahal - 389 001 (Gujarat)
स्थायी लेखा सं./PAN:n AAAAT 2871 M		
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :	Ms.Urvashi Sodhan & Shri Parin S. Shah, ARs	
Revenue by :	Shri Samir Tekriwal, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 03/07/2024
घोषणा की तारीख /Date of Pronouncement: 10/07/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

This appeal is filed by the Revenue as against the order passed by the Ld.Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the Ld.CIT(A)" in short] dated 08/08/2023 for Assessment Year (AY) 2017-18, arising out of the assessment

order dated 29/12/2019 passed by the Assessing Officer (AO) under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

Facts of the Case:

2. The assessee is a Co-operative Credit Society registered under The Gujarat State Co-operative Societies Act, 1960, with Registration No. S. 3978. The Society is empowered to grant loans, accept deposits, and engage in banking activities such as issuing demand drafts, bearer cheques and providing locker facilities. The Society operates over 1,000 loan accounts, more than 40,000 deposit accounts and 8 savings/current accounts.

2.1. The assessee filed its return of income on 10-10-2017 declaring total income at Rs.NIL. The AO selected the case for scrutiny due to cash deposits during the demonetization period. The AO issued several notices under section 142(1) of the Act, requiring the assessee to furnish details of cash transactions. Despite the voluminous nature of the records, the assessee submitted all necessary details, including the cash book and bank book.

2.2. During the demonetization period from 09.11.2016 to 30.12.2016, the society deposited cash amounting to ₹54,52,000, including ₹8,42,000 in Specified Bank Notes (SBNs). The source of these deposits was the opening cash balance on 08-11-2016 and subsequent loan recoveries and member deposits. The Society declared all bank accounts in its income return and complied with the Cash Transaction 2016 report requirements.

2.3. The AO discussed the impugned addition in paragraphs 5 and 6 of the assessment order, citing incomplete details furnished by the assessee, discrepancies between the return of income and submitted details and the lack of documentary evidence for cash deposits during the demonetization period. The AO raised concerns about the partial submission of details, discrepancies in cash deposit figures and the absence of bank pay-in slips. The AO, in the assessment order dated 29-12-2019, made an addition of ₹3,59,12,000 to the assessee's income under section 69A of the Act, representing the difference between the total cash deposited during Financial Year (FY) 2016-17 and the total cash withdrawn from banks.

2.4. The assessee preferred an appeal against the AO's order before the Ld.CIT(A). The Ld.CIT(A) held that the addition under section 69A of the Act was unsustainable as the AO failed to provide specific discrepancies or defects in the assessee's records. The Ld.CIT(A) deleted the addition of ₹3,59,12,000. While doing so, the Ld.CIT(A) recorded the following observations:

1. The AO summarily rejected the assessee's submissions without proper verification. The AO's demand for voluminous documentation was impractical given the manual nature of the assessee's record-keeping. Additionally, the Ld.CIT(A) observed that the AO did not identify any specific defects in the books of accounts, which were audited and complied with regulatory norms.
2. The cash deposits during the demonetization period were consistent with the society's banking operations, and there was a decline in cash deposits compared to the previous year. The ratio of SBN deposits to total cash deposits was 15%, indicating no abnormality.

3. Aggrieved by the order of the Ld.CIT(A), the Revenue is in appeal before us with the following grounds:

- “1. On the facts and circumstances of the case and in law, the Id.CIT(A) erred in deleting the addition of Rs.3,59, 12,000/- made u/s 69A r.w.5 115BBE of the Act holding the relevant details being voluminous which were not furnished by the assessee during assessment proceedings as well as appellate proceedings, without appreciating the fact that without verification of relevant details, the genuineness, creditworthiness and identity of the cash depositors remains unverified and resultantly the source of cash deposits remains unexplained.
2. The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal.

It is prayed that the order of the CIT(A) on the above issues be set-side and that of the Assessing Officer be restored.”

On the Grounds of appeal:

4. The Ld.Departmental Representative (DR) relied on the order of AO and stated that the assessee had furnished the details and information partially to the AO. The Ld.DR also pointed out that the assessee failed to submit bank pay-in-slips of deposit of cash in various bank accounts relating to old denomination and new denomination. He placed reliance on the decision of **Bangalore Bench of ITAT in case of Bhavana Co-operative Credit Society Niyamita in ITA No. 739/BANG/2021 dated 16-09-2022.**

5. The Ld.Authorised Representative for the assessee, on the other hand, placed reliance on the Ld.CIT(A)'s order and explained all the details submitted to AO and the Ld.CIT(A).

5.1. The Ld.AR further submitted that the books of accounts of assessee are audited and no any discrepancy was observed by the auditor. The AO has not rejected any books of accounts and therefore any addition u/s 68 is unwarranted. He further submitted that the assessee has provided all necessary details of cash deposits in return of income, the copy of which was available with the AO details of which can be verified from page 20 of the ITR with acknowledgement number 237368861101017.

5.2. The AR also invited our attention to the fact that all the information asked by the AO, as per his show cause notice, were provided. Most importantly the copies of pay-in-slips as mentioned by AO in his order were never called for which can be verified from the notice of the AO. He further stated that the data was required to be uploaded and all the books of accounts including cashbook was uploaded on 03-12-2019. The Ld.AR submitted Bank Certificate showing cash deposited during demonetisation period and Cash Transaction Reports as submitted/uploaded on compliance portal in support of assessee's claim, before us which was also submitted to the Ld.CIT(A).

6. We have also gone through the decision of Bangalore Bench of ITAT in case of Bhavana Co-operative Credit Society Niyamita(supra), which is relied on by the Ld.DR. In that case, cash of ₹43,10,760 was deposited during the period of demonetization which was not verified by the lower authorities in accordance with the SOP issued by CBDT. In the present case under consideration, the details of amount deposited by the assessee during demonetization were submitted as per compliance report submitted

by the assessee and the same was pointed out to the AO and the Ld.CIT(A) during the course of proceedings. Therefore, the same decision relied on by the Ld.DR is not applicable to the present case.

6.1. We have carefully examined the facts of the case, the assessment order, and the Ld.CIT(A)'s decision. We find that the Ld.CIT(A) rightly observed that the AO's addition under section 69A of the Act was based on incomplete verification and erroneous interpretation of the facts.

6.2. We noted that the assessee, being a Co-operative Credit Society, engaged in regular banking activities involving numerous small transactions in cash, which were properly accounted for in its books. The books of accounts were audited and accepted as true and correct by the AO. We concur with the Ld.CIT(A) that the cash deposits during the demonetization period were consistent with the society's operational pattern and did not show any unusual increase compared to the previous year.

6.3. We agree that the AO's demand for detailed documentation in the form of pay-in-slips for all transactions was impractical, and the AO did not identify any specific discrepancies in the cash deposits.

6.4. We uphold the Ld.CIT(A)'s decision to delete the addition of ₹3,59,12,000 under section 69A of the Act, as the AO failed to substantiate

the addition with concrete evidence.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 10th July, 2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 10 /07/2024

टी.सी.नायर, व.नि.स./T.C. NAIR, SK. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad