

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 80/Chny/2024

निर्धारण वर्ष / Assessment Year: 2017-18

The Mayavaram Financial Chit  
Corporation Limited,  
13-A1, Cutchery Road,  
Mayiladuturai,  
Mayiladuturai HO,  
Nagapattinam -609 001.

**[PAN: AACT-2594-F]**

(अपीलार्थी/Appellant)

v. The Deputy Commissioner of  
Income Tax,  
Circle -2(1),  
Trichy.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 16.05.2024

घोषणा की तारीख/Date of Pronouncement : 10.07.2024

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal instituted by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 19.12.2023.

2. The sole ground of the assessee is that addition of Rs.13,37,000/- u/s. 69A of the Income Tax Act, 1961 (hereinafter referred to as "the Act") and taxed u/s. 115BBE of the Act.

3. The brief facts are that, the assessee is a company engaged in the business of chit fund services to its members. It has filed its return of income for the assessment year 2017-18 on 28.07.2017, declaring a total income of Rs.96,95,870/-. The case was selected for scrutiny through CASS. During the course of assessment proceedings, the Assessing Officer has found that the appellant has made a cash deposit of Rs.32,20,000/- in the form of SBNs during demonetization period. The Assessing Officer has passed an order u/s. 143(3) of the Act on 23.12.2019 by holding Rs.13,37,000/- cash deposits made during demonetization period as unexplained money u/s. 69A of the Act. Aggrieved by the order of the Assessing Officer, the appellant preferred an appeal before the Id.CIT(A).

4. The Id.CIT(A) confirms the addition made by the Assessing Officer by dismissing the appeal of the assessee by holding as under:

*"5.7. Now the question arises as to whether any person who received such SBN notes after 9th November, 2016..can bring it into his books of accounts or not. Here, the basic principles of*

*accountancy have to be relied upon. The money measurement concept underlines the fact that in accounting and economics generally, every recorded event or transaction is measured in terms of money, i.e., the local currency monetary unit of measure. Since the SBNS were just a piece of papers and they bear no value on 9th Nov. Or after, as Central Government, the guarantor had withdrawn its guarantee. It is to be noted that from 09.14.2016 only legal tender currencies like Rs. 5, Rs. 10, Rs. 20, Rs. 50, Rs. 100, Rs 200 Rs500 and Rs:2000 only can be accepted by the assessee for any transactions. Therefore, if the assessee has received any Old SBN notes after 09.11.2016. on account of any monetary transactions and utilizes the same for making cash deposits into the bank account, then the credit of the same into the books of accounts is not valid. Therefore, it cannot be measured in money terms and hence, it can't be journalized in books of account. Therefore, the transactions made in SBN on or after 9th November 2016 as prohibited by the law, cannot be entered into cash books. Therefore, the same has to be treated as unexplained money u/s 68 and brought to tax. In view of the foregoing facts the addition made by the AO of Rs 13,37,000/- u/s 69A of the Act is hereby confirmed/Upheld. Accordingly all grounds raised by the appellant are Dismissed."*

Aggrieved by the order of the Id.CIT(A), the assessee is in appeal before us.

5. The Id.AR stated that the assessee is public limited company and has maintained proper books of accounts as required under both Companies Act and Income Tax Act and the same has been audited by statutory auditors before filing it to the statutory authorities. The assessee had filed a detailed and comprehensive reply before the Assessing Officer by furnishing the details of SBNS deposited, source of deposits along with cash book, ledger A/c, cash receipts from the chit subscribers, KYC of subscribers and

other supporting details establishing the recording of transactions of cash deposits in the books of accounts, genuineness and authenticity of the cash transactions along with identity and capacity of the subscribers who have made cash payments to the company. According to the Ld. Counsel for the assessee, he had submitted entire details to prove the nature and source of cash deposits made during demonetization period. The assessee is carrying on the business of conducting chits and the amount received is towards chit subscriptions are in pursuance of the chit agreement entered with the respective subscribers for each chit group which are separately registered with the Registrar of chits. Each chit subscriber is separately identified with a unique customer ID and KYC documents, which are obtained from the subscribers at the time of joining chit group. The chit subscribers of the assessee company have been contributing the subscriptions throughout the entire duration of chit commencing from the earlier years and extending to subsequent years too and are not one time or one off creditors. Thus, there is a continuity of business transactions with each subscribers and the subscriptions are fixed ahead of the auctions and are pursuant to their obligation prescribed under registered chit agreement. Being the registered chit company, there is no possibility of fresh set of subscribers being introduced in

between months, and the list of chit subscribers are submitted to the Registrar of chits at the time of commencement of the chit group. Since, the cash receipts have been received from the chit subscribers of the company, the assessee had proved the genuineness of the nature and source of cash deposits made to its bank account during demonetization period and hence, the Assessing Officer and Id.CIT(A) have erred in making an addition u/s. 69A of the Act to the tune of Rs.13,37,000/- and needs to be quashed. Further, the Id. Counsel pointed out that the Assessing Officer has neither questioned the correctness of the books of accounts nor rejected the books of accounts as evident from perusal of the assessment order passed u/s. 143(3) of the Act. Therefore, the impugned addition of Rs.13,37,000/- without any reasons is against the law and does not stand in the eyes of law. Further, the assessee relied on the following decisions of various tribunals where an identical issue has been held in favour of the assessee:

- Raju Dinesh Kumar vs DCIT [2024] 159 taxmann.com 1598 (Chennai-Trib)
- DCIT vs M.C. Hospital [2022] 142 taxmann.com 122 (Chennai-Trib)
- Merchants Credit Co-operative Society Ltd vs ITO [ITA No. 329/Bang/2023]

- Jay Mataji Co-operative Credit Society Limited vs ITO [ITA No. 3723/Mum/2023]

- Prathamika Krushi Pattina Sahakari Sangha Niyamitha Itagi vs ITO [ITA No. 593/Bang/2021]

6. Per contra, the Id.DR has relied on the order of the Id.CIT(A) and that of Assessing Officer and prayed for dismissing the appeal of the assessee.

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We note that the assessee is public limited company and has duly maintained the books of accounts which are audited by statutory auditors appointed by the company and filed its return of income before the due date as prescribed under the Act. As stated by the Id.AR, on perusal of the assessment order passed by the Assessing Officer u/s. 143(3) of the Act, the Assessing Officer has neither rejected the books of accounts nor has doubted the genuineness of the nature and source of cash deposits made by the assessee.

8. Therefore, we do not countenance the action of both the Assessing Officer and the Id.CIT(A) in making an addition of

Rs.13,37,000/- as unexplained money u/s. 69A of the Act and bringing it to tax u/s. 115BBE of the Act. To this extent, in our considered view, the reasons given by the Assessing Officer to reject the explanation of the assessee for source for cash deposits into bank account is devoid of merits.

9. The decisions referred by the Ld. Counsel for the assessee in support of the issue held in favour of the assessee in the case of Raju Dinesh Kumar vs DCIT (Supra), where the coordinate bench of tribunal held as under:

*"9. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The facts borne out from the record clearly indicate that the assessee is running a dhal mill and manufacturing various kinds of dhalls. The facts brought on record by the AO further indicated that the assessee procures various kinds of pulses from local market and manufacturing into various kinds of dhalls and sells to unregistered dealers in cash. The assessee has filed comparative cash sales and cash deposits into bank account for FY 2015-16 & FY 2016-17 and also cash sales and cash deposits for the month of October & November, 2015 and October & November, 2016. On perusal of details filed by the assessee, which has been reproduced by the AO in the assessment order, we find that there is no abnormal variation in cash sales and cash deposits into bank account for FY 2015-16 & FY 2016-17. Further, the cash sales achieved by the assessee for FY 2015-16 is higher than the cash sales reported for FY 2016-17. From the details filed by the assessee, it is abundantly clear that there is no sudden increase in cash sales during demonetization period when compared to earlier Financial Years. Further, the assessee has filed cash book and other details to prove availability of cash in hand as on 08.11.2016 at Rs.71,76,208/-. In fact, the AO is not disputed the fact that the assessee has filed cash book and as per said cash book, cash in hand as on 08.11.2016 was at Rs.71,76,208/-. If you go by the nature of business of the assessee*

*and sales trend, it is undoubtedly clear that the assessee's sales predominantly in cash, and thus, the cash in hand shown by the assessee as on 08.11.2016 appears to be genuine and bona fide. To this extent, in our considered view, the reasons given by the AO to reject explanation of the assessee for source for cash deposits into bank account is devoid of merits.*

*10. Having said so, let us come back to the explanation of the assessee with regard to source for remaining cash deposits. The assessee claims that he is into manufacturing of various kinds of dhalls and sells to unregistered dealers in cash. The assessee claims that he has collected cash in demonetized currency from customers even after 09.11.2016 and said cash receipts is not violation of Specified Bank Notes (Cessation of Liabilities) Act, 2017. We find that although, the Government of India & RBI issued various notifications and circulars barring people transacting in SBNs, but, as per Specified Bank Notes (Cessation of Liabilities) Act, 2017, no person shall accept or transact any SBNs from the appointed date. As per said Act, appointed date is 31.12.2016. From the above, it is very clear that up to appointed date, persons can transact in SBNs. However, the only requirement is, they should be able to establish source for said cash deposits. This principle is further fortified by the decision of the ITAT Chennai Bench in the case of Amar Sparklers Factory v. ITO in [IT Appeal No. 808 (Chny) 2023, dated 11-10-2023], where the Tribunal after considering relevant facts has held as under:*

*7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. In so far as addition of Rs. 6,62,783/-, we find that the assessee itself has admitted shortage of source in their cash flow statement filed before the AO. Therefore, from the above, it is undoubtedly clear that the assessee could not explain source for cash deposits to the extent of Rs. 6,62,783/- and thus, we are of the considered view that, there is no error in the reasons given by the CIT(A) to sustain additions made towards cash deposits to the tune of Rs. 6,62, 783/-. In so far as addition of Rs. 20,40,000/- towards advance received from group concerns, it was an argument of the appellant that group concerns have paid advance in cash during demonetization period and deposited into IDBI bank account. In this regard, the appellant has filed necessary details including PAN nos. and confirmation letters from the group concerns to prove receipt of trade advance. The Assessing Officer has not disputed these facts, however made additions only on the ground that the assessee*

*should not have accepted cash in specified bank notes after 08.11.2016. We find that this issue is covered in favour of the assessee by the decision of ITAT, Chennai Benches in the case of M/s. Micky Fireworks Industries v. ACIT in ITA No. 264/Chny/2023, dated 26.07.2023, where the Tribunal under identical set of facts deleted additions made by the Assessing Officer, and the findings of the Tribunal is reproduced as under:*

*"4. From the facts, the undisputed position that emerges is that the assessee has made sale of fireworks during festival season. The sales are duly accounted for by the assessee in the books of accounts. The accounts have duly been audited. The assessee has realized debtors out of such sale in SBN which have been deposited in the bank account of the assessee. The cash deposited by the assessee has duly been accounted for in the books of accounts. The Ld. AO has not alleged any bogus sales or back dated sales made by the assessee. No defect has been pointed in the book of accounts as maintained by the assessee.*

*5. It could also be seen that during the course of assessment proceedings, various notices were issue u/s.142(1) from time to time calling numerous details from the assessee. The assessee was required to file numerous details including monthly cash flow statement, inventory of closing stock, copy of sales tax assessment order, monthly cash deposits and credits for various periods, ledger account for purchase and other expenditure, monthly sales gross receipts, monthly purchases, details of old notes and new notes deposited during demonetization period, the day book, Cash book, ledger maintained for business, cash balance as per cash book etc. All these details were duly submitted by assessee vide reply dated 12.12.2019. The assessee also submitted month-wise cash deposits in all bank accounts, details of old notes deposited at the time of demonetization period. Pertinently, the assessee also furnished details of name, address and PAN of cash depositors who deposited cash during demonetization period. The same has been detailed on pages 24 to 35 of the paper book. Apparently, the same could not be faulted with by Ld.AO. There is no allegation of any irregularity in the books of account.*

*6. We find that the only reasoning to treat the said deposits as unexplained cash credit u/s 68 is that the assessee was debarred from dealing in SBN after 08-11-2016. However, in the present case, the cash so received by the assessee is*

*backed by sales carried out by the assessee as recorded in the books of accounts. Therefore, the source of cash is duly explained. The provisions of Sec.68 could be invoked only in cases when there was unexplained cash credit in the books of accounts maintained by the assessee. However, the assessee has duly identified the debtors from whom the cash was received and the same could not be disputed by lower authorities. The PAN of respective debtors as well as quantum of cash realized from each of them has duly been detailed by the assessee before Ld. AO during assessment proceedings. No defect has been pointed out in the books of accounts. In such a case, the credit could not be held to be unexplained cash credit and the impugned additions are not sustainable in law .*

*7. The SMC bench of this Tribunal in Mrs. Umamaheswari v. ITO (supra), on identical facts, deleted similar additions on the ground that the assessee had duly evidenced the source of cash deposit and therefore, addition could not be made u/s 68. Similar is another decision of SMC Raipur Bench in Rahul Cold Storage v. ITO (supra) wherein it has similarly been held that when the deposits were sourced out of business receipts duly recorded in the books of accounts, no such addition could be made u/s 68. The other cited decision of Bangalore Tribunal is also on similar lines.*

*8. Considering the facts and circumstances of the case, we find force in assessee's case and therefore, delete the impugned addition as made u/s 68. We order so. The Ld. AO is directed to re-compute the income of the assessee."*

*8. In this view of the matter and by following the decision of ITAT, Chennai Benches, we direct the Assessing Officer to delete additions made towards source for cash deposits at Rs. 20,40,000/- u/s. 69A of the Act.*

*11. In the given facts of the present case, there is no dispute with regard to the fact that the assessee's sale predominantly in cash. It is also an undisputed fact that there is no abnormal variation in total sales, cash sales and cash deposits for two Financial Years. The assessee is also able to file various evidences, including month-wise purchase and sales and cash book to prove availability of cash in hand as on 08.11.2016. Therefore, we are of the considered view that going by the nature of business of the assessee and also details submitted for two Financial Years, the explanation offered by the assessee towards source for cash deposits into bank account during*

*demonetization period, is bona fide and acceptable. The AO and the Ld.CIT(A) without considering the relevant submissions of the assessee simply made addition towards cash deposits u/s.69A r.w.s.115BBE of the Act. Thus, we set aside the order of the Ld.CIT(A) and direct the AO to delete the addition made towards cash deposits u/s.69A r.w.s.115BBE of the Act.*

10. In the given facts of the present case and by relying on the judicial precedents of the Tribunal, we are of the considered view that going by the nature of business of the assessee and explanation offered by the assessee towards source for cash deposits into bank account during demonetization period, is bona fide and acceptable. We note that the assessee is a private limited company carrying on the business of conducting chits and the amount received is towards chit subscriptions, which is in pursuance of the chit agreement entered with the respective subscribers for each chit group, which are separately registered with the Registrar of chits. Further, the assessee has furnished before the Assessing Officer the identity of each subscriber with unique customer ID and KYC documents to prove the cash receipts contributed by the subscribers during the assessment year. These subscriptions are not received only during demonetization period but the subscribers are paying the subscription for the chit throughout the duration of chit group. In light of the above, AO and the Ld.CIT(A) without considering

the relevant facts and evidences furnished by the assessee, has made the impugned addition towards cash deposits u/s.69A r.w.s.115BBE of the Act, which is legally unsustainable and deserve to be deleted. Thus, we set aside the order of the Ld.CIT(A) and direct the AO to delete the addition made towards cash deposits u/s.69A r.w.s.115BBE of the Act.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 10<sup>th</sup> July, 2024 at Chennai.

**Sd/-**  
(एबी टी वर्की )  
**(ABY T VARKEY)**  
न्यायिक सदस्य/**Judicial Member**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S. R. RAGHUNATHA)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 10<sup>th</sup> July, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF