

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "A", BANGALORE**

**Before Shri Chandra Poojari, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.1170/Bang/2024: Asst.Year : 2017-2018

The Adil Amanat Co-op Credit Society Limited Alankar Talkies Road M.G.Road, Bijapur Karnataka – 586 101. PAN: AAAAT6687R.	vs.	The Income Tax Officer Ward 1 & TPS Bijapur.
(Appellant)		(Respondent)

Appellant by: Sri.Varun Bhat, CA
Respondent by: Ms.Neha Sahay, JCIT-DR

Date of Hearing : 18.07.2024	Date of Pronouncement: 19.07.2024
------------------------------	--------------------------------------

ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the learned CIT(A) dated 20th February, 2024 having DIN & Order No.ITBA/NFAC/S/250/2023-24/1061193700(1) and relates to assessment year 2017-2018.

2. The facts leading to the present appeal are as under:

The assessee is a co-operative society, filed its income-tax return on 30th October, 2017, declaring an income of Rs.28,68,010. The case of the assessee was selected for scrutiny *inter alia* on the grounds that cash deposited during demonetization period. Thereafter, the Assessing Officer (AO) issued questionnaire to the assessee and framed the assessment by observing that the assessee failed to explain the source of cash deposited during the

demonetization period to the tune of Rs.2,59,66,500. The AO observed that the assessee continue to accept cash in the shape of illegal tenders after 09.11.2016. For the sake of convenience, the observations of the AO are reproduced as under: -

“Though it is presumed that all such collected old notes were deposited into its banks after having accounted for in its cash book, since the notes were banned, the demonetized currency cannot be treated as a movable asset as claimed by it of treating the old banned currency with value. Accordingly, in view of the discussions as above, the monetary transactions done by the assessee in the SBN notes after 09.11.2016 are not valid and therefore, the same is to be treated as unexplained cash deposits. The value entered into you books of accounts has to be treated as ZERO against each entry of such old notes taken. Against the value of zero it has got credit in its bank account.”

3. At last, the AO made an addition of Rs.1,97,42,000 u/s.68 of the Income-tax Act, 1961 (“the Act” hereinafter) to the returned income of the assessee.

4. Aggrieved with the order of the AO, the assessee filed appeal before the learned CIT(A), who partly allowed the appeal of the assessee and sustained the addition of Rs.1.97 crore on the ground that the assessee has accepted illegal loans after the demonetization event.

5. Assailing the order of the CIT(A), the assessee has come up in appeal before us. The learned AR of the assessee argued that the ld.CIT(A) and the AO has overlooked the Circular issued by RBI dated 14th November, 2016, which circular has clarified that there is only one restriction on the cooperative banks that they cannot exchange the SBN with new currency. It is the argument of the ld.Counsel for

the assessee that there was no restriction on the banks for accepting old currency notes of Rs.500 and Rs.1000.

6. The learned Departmental Representative relied upon the orders of the authorities below.

7. After considering the rival submissions and perusing the material on record, we observe that the AO has not examined the purport of CBDT Circular dated 14th November, 2016. Therefore, we restore the matter to the file of the AO for *de novo* adjudication. Before parting, we would also give liberty to the assessee to agitate all the issues including the issue of 40(a)(ia) before the AO. Needless to say, the AO will provide proper opportunity of being heard to the assessee in the set aside proceedings.

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

Order pronounced in the open court on 19th July, 2024.

**Sd/-
(Chandra Poojari)
Accountant Member**

**Sd/-
(Prakash Chand Yadav)
Judicial Member**

Bangalore; Dated: 16th July, 2024
Devadas G*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(A) Concerned.
4. The DCIT concerned.
5. The Sr. DR, ITAT, Bangalore.

Asst.Registrar
ITAT, Bangalore