

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" A " 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, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.556/Ahd/2024  
निर्धारण वर्ष /Assessment Year : 2017-2018

The Income Tax Officer Ward-1(3)(1) Petlad 388 450 (Gujarat)	<b>बनाम/ v/s.</b>	Shri Shivoham Sagar Co-op. Credit Society Ltd. Kantharia, At PO Kantharia - 388 307
<b>स्थायी लेखा सं./PAN: AAAAS 9119 F</b>		
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Assessee by :		Shri Umang N. Shah, AR
Revenue by :		Shri Ashok Natha Bhalekar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 08/08/2024  
घोषणा की तारीख /Date of Pronouncement: 14/08/2024

**आदेश/ORDER**

**PER MAKARAND V. MAHADEOKAR, AM:**

This appeal is filed by the Revenue as against the order dated 02/02/2024 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" in short] arising out of the assessment order dated 30/12/2019 passed by the Assessing Officer (AO) under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") relevant to the Assessment Year (AY) 2017-18.

2. The brief facts of the case are that the assessee is a registered Co-operative Society under the Gujarat Co-operative Societies Act. The main objective of the Society is providing credit facilities to the members. The assessee filed its return of income on 15.07.2017 declaring total income of Rs.NIL, after claiming deduction under chapter-VI-A (under section 80P) amounting Rs. 9,57,108/-. The case was selected for scrutiny and notices under sections 143(2) and 142(1) of the Act were issued and duly served upon the assessee.

2.1. The AO observed that the assessee has claimed deduction u/s.80P relating to interest from Nationalized Banks. Therefore, he disallowed the deduction to the extent of Rs.4,79,001/- The AO also observed that the assessee had deposited cash during the period of demonetization in its bank account. The AO further observed that these deposits were made in the denominations of old currency notes (SBN) of Rs.500 and Rs.1000 to the extent of Rs.77,20,000/- on 10-11-2016, 11-11-2016 and 12-11-2016. The AO issued show-cause notice stating that since the old currency notes had ceased to be legal tender and the opening balance as on 08-11-2016 was only Rs.2,54,457/-, there cannot be more deposits in old denominations so why the excess amount of Rs.74,65,543/- (77,20,000 - 2,54,457) deposited in bank accounts should not be treated as unexplained, and why the same should not be added to your income.

2.2. The assessee in its reply stated that they accepted cash from various members and deposited in its bank accounts only up to 12-11-2016 and, thereafter, have stopped receiving SBN from members and not deposited. The assessee further stated that they were under the genuine belief that they

can accept such cash from their members. The assessee also furnished names and addresses of all those members from whom they had accepted cash during demonetization period from 10/11/2016 to 12/11/2016. The assessee also stated that they have pay-in-slips with their ledger accounts and KYC details of all depositors to substantiate their contention of sources of cash received. The assessee stated that they have established before AO about the genuineness of the transaction and identity and address proof of the depositors who were all-members of the society and were under the bona-fide belief that they can accept SBN for recovery of loan from their members.

2.3. The AO not being satisfied with the explanation offered, added the total amount of Rs.74,65,543/- u/s.68 of the Act to the income of the assessee. While doing so, the AO concluded that since vide Government of India notification dated 08-11-2016 all SBN currency of Rs.500 and R.1000 ceased to be a legal tender, the transactions made in such currency were not genuine. Despite the fact that the assessee showed his willingness to furnish every detail of the persons, who had deposited cash in their accounts with their names, addresses and ledger account to prove the source of such cash deposits, the AO was of the view that establishment of identity of members is of no relevance because it is unacceptable that the members have made transactions in illegal tender. The AO also held that if the assessee is allowed to accept or raise its cash book with SBNs claimed to be received from the members: during demonetization period, then the whole purpose of demonetization is defeated. Thus, books can in no case be credited by illegal tender and even the bank accounts cannot be credited by the illegal tender.

3. Not satisfied with the order of AO, the assessee preferred an appeal before Ld.CIT(A), who confirmed the addition u/s.80P of the Act and deleted the addition u/s. 68 of the Act. While doing so, the Ld.CIT(A) relied on the decision of **Bangalore Tribunal in the case of Sri Bhageeratha Pattina Sahakara Sangha Niyamitha in ITA No. 646/Bang/2021 dated 18-02-2022.**

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

- "1. The Ld. CIT(A) has erred in law and facts in deleting the addition of Rs. 74,65,543/- made by the AO u/s 68 of the Act, without appreciating the findings of the AO that the assessee was not authorized to accept SBN once the RBI Notification No. RB 1/2016-17/112/DCM(Plg)No.1 226/10.27.00/2016-17 dated November 08,2016, came into effect?*
- 2. The Ld. CIT(A) has erred in ignoring the RBI Notification RB1/2016-17/112/DCM (Plg) No. 1126/10.27.00/2016-17 dated November 08,2016 which clearly delineated the authorities authorized to accept the SBN with effect from 08.11.2016 and co-operative societies were not one of the authorized agency to accept the SBN?*

*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."*

5. On the grounds of the appeal, the Departmental Representative (DR) stated that the assessee has accepted illegal currency and, therefore, it cannot be held as genuine transaction. He placed reliance on the order of the AO.

6. On the other hand, the Ld.Authroised Representative (AR) of the assessee relied on the order of the Ld.CIT(A).

7. We have heard the contentions of the parties, considered the order of the Ld.CIT(A) and note that in the case of **Sri Bhageeratha Pattina Sahakara Sangha Niyamitha(supra)**, the Tribunal concluded that there is no basis for linking assessee's alleged violation of RBI notification to section 68 of the Act, when the nature and source is explained. The relevant portion of the decision is reproduced below:

*"15. The case of the A.O is that the assessee has collected the demonetized notes after 8.11.2016 in violation of the notifications issued by RBI. Accordingly, he has taken the view that the above said amounts represents unexplained money of the assessee. I am unable to understand the rationale in the view taken by A.O. I noticed that the AO has invoked the provisions of sec.68 of the Act for making this addition. I also noticed that the assessee has also complied with the requirements of sec.68 of the Act. The AO has also not stated that the assessee has not discharged the responsibility placed on it u/s 68 of the Act. Peculiarly, the AO is taking the view that the assessee was not entitled to collect the demonized notes and accordingly invoked sec.68 of the Act. I am unable to understand as to how the contraventions, if any, of the notification issued by RBI would attract the provisions of sec. 68 of the Income tax Act. In any case, I notice that the assessee has also explained as to why it has collected demonetized notes after the prescribed date of 8.11.2016. The assessee has explained that it has stopped collection after the receipt of notification dated 14.11.2016 issued by RBI, which has clearly clarified that the assessee society should not collect the demonetized notes. Accordingly, I am of the view that the deposit of demonetized notes collected by the assessee from its members would not be hit by the provisions of section 68 of the Act in the facts and circumstances of the case. Accordingly, I set aside the order passed by Ld. CIT(A) on this issue and direct the A.O. to delete this disallowance.*

7.1. The facts in the present case are similar to the decision relied on by the Ld.CIT(A). Under Section 68 of the Act, the assessee is required to explain the nature and source of deposited money. The assessee claimed that the deposits in question were from ordinary business collections, such as loan repayments and other deposits from its members. These transactions were duly recorded in the books of accounts and, thus, there

should be no reason to treat them as unexplained money. We have noted that the AO did not dispute the assessee's claim that the deposited money represented regular business collections from its members. These transactions were properly recorded in the books of accounts. Hence, we conclude that the assessee had adequately explained the nature and source of the deposits. Therefore, these deposits should not be considered unexplained money.

7.2. The AO's primary concern was that the assessee collected demonetized notes post-demonetization (08-11-2016), allegedly violating RBI notifications. However, we find no basis for linking this violation to Section 68 of the Income Tax Act, as decided in the case of **Sri Bhageeratha Pattina Sahakara Sangha Niyamitha(supra)**. We note that the assessee complied with Section 68 of the Act by explaining the source of the money. Moreover, the assessee ceased collecting demonetized notes after the RBI's notification dated 14-11-2016. Hence, we do not find any reason to interfere in the decision of the Ld.CIT(A). We uphold the decision of the Ld.CIT(A) in deleting the addition of Rs.74,65,543/- u/s 68 of the Act.

8. In the result, the appeal of Revenue is dismissed.

**Order pronounced in the Open Court on 14<sup>th</sup> August,2024 at Ahmedabad.**

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

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

अहमदाबाद/Ahmedabad, दिनांक/Dated 14/08/2024

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)-
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