

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H(SMC)", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**I.T.A No.2888/Mum/2024  
(Assessment Year: 2017-18)**

<b>Momin Gujarat CHS Ltd</b> 2B, Munavvara, Momin Gujarat, Molana Asad Madni Road, Jogeshwari West, Mumbai-400 102 <b>PAN : AAABM0543Q</b>	<b>vs</b>	<b>National Faceless Appeal Centre (NFAC), Delhi / ITO Ward 31(2)(3)</b> Kautilya, BKC, Bandra(E), Mumbai- 400 051
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Vimal Punmiya  
Respondent by : Shri Mehul Jain (Sr. DR)

Date of hearing : 22/08/2024  
Date of pronouncement : 23/ 08/2024

**ORDER**

**PER ANIKESH BANERJEE, J.M:**

Instant appeal of the assessee was filed against the order of the Learned National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2017-18, date of order 31.03.2024. The impugned order was emanated from the order of the Ld. Income-tax Officer, Ward 31(2)(3), Mumbai, order passed under section 143(3), date of order 05/12/2019.

2. The assessee has taken the following grounds:-

*“1) That the learned Assessing officer erred in facts and at law in adding the entire deposit of cash of Rs.21.85.736 and thereby enhancing the income of the appellant to that extent.*

*2) The learned Assessing officer erred in recognising the fact that the society which has almost 800 and odd members cannot have balance of the sum of money added by him*

*3) That the learned assessing officer erred in not providing proper opportunity of being heard to the appellant*

*4) The learned assessing officer erred in levying interest and penalties under various sections of Income Tax Act.*

*5) That your appellant craves leave to add alter delete, amend any of the grounds of appeal.”*

3. The brief facts of the case are that the assessee is a co-operative housing society and filing the return of income under the status of ‘Body of Individuals’ (BOI). In the impugned assessment year, the assessee deposited cash during the demonetization period, SBN amount of Rs.21,85,736/- in its different bank accounts. The deposited cash was from collection of maintenance from the members of the society and the assessee is maintaining 12 housing units. Each housing unit maintains a separate bank account. The cash was deposited in bank accounts in SBN during the demonetization period amount to Rs. 21,85,736/- as per the Id. AO. The amount of Rs.21,85,736/- was added under section 69A and taxed under section 115BBE of the Act. Being aggrieved on the assessment order, the assessee filed an appeal before the Id. CIT(A). The assessee claimed before the Id. CIT(A) that the Ld.AO had wrongly determined the cash deposit amount of Rs.21,85,736/- instead of Rs.18,96,736/-. The Ld.CIT(A) had not considered the

assessee's submission. The appeal order was passed by confirming the assessment order. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. The Ld.AR filed the written submission which is kept in record (in short APB). The Ld.AR argued that the assessee collected the cash before the demonetization period; the cash was deposited in SBN within the period from 08/11/2016 to 31/12/2016. It was allowed that the SBN can be deposited in their bank and passed office accounts from 08/11/2016 till 30/12/2016. The Ld.AR first agitated that the Ld.AO has wrongly determined the deposit of cash in bank account during said period. The correct amount is Rs.18,96,736/- which is deposited in its different bank accounts. The details list of the deposit of cash in banks account is reproduced as below: -

*"B. The assessee has deposited cash of Rs.18,96,746/- between 9<sup>th</sup> November, 2016 to 31<sup>st</sup> December,2016 in bank post demonetization i.e. Saraswat Bank as per table below: -*

<b>Sr.No.</b>	<b>Bank Account Nos.</b>	<b>Amount (Rs.)</b>
1	5057201005050263	76,636/-
2	50572010051810	1,86,860/-
3	50572010055764	3,01,966/-
4	50572010091044	4,00,000/-
5	50572010094257	1,41,582/-
6	5057201010703	4,11,406/-
7	50572010046909	3,78,286/-
	<b>TOTAL</b>	18,96,736/-

The Ld.AR in argument placed the yearwise bank deposits. The Id. AR explained that every year the deposit of cash in bank accounts are in same frequency. There no such certain hike in the impugned assessment year. The chart related to comparative study is reproduced as below: -

*“7. The total sales and cash deposits summary bank account wise from previous years maintenance receipts.*

<b>Bank Accounts</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
	<b>Ay 2015-16</b>	<b>AY 2016-17</b>	<b>AY 2017-18</b>	<b>AY 2018-19</b>	<b>AY 2019-20</b>
5057201005050263	4,16,385	4,94,502	<b>4,14,346</b>	4,53,714	4,49,115
50572010051810	8,39,141	9,18,498	<b>10,61,108</b>	8,58,116	8,49,595
50572010055764	19,49,683	19,35,356	<b>19,44,453</b>	17,29,072	19,52,310
50572010091044	6,00,000	6,00,000	<b>8,00,000</b>	5,00,000	17,40,500
50572010094257	5,00,477	9,27,314	<b>8,44,162</b>	7,09,533	6,78,197
5057201010703	14,79,810	14,98,635	<b>15,30,329</b>	15,74,524	14,11,866
50572010046909	134,42,354	18,48,243	<b>13,54,881</b>	15,42,556	17,33,230
<b>Total</b>	<b>71,27,850</b>	<b>82,22,548</b>	<b>79,49,379</b>	<b>73,67,515</b>	<b>88,14,813</b>

The Ld.AR has drawn our attention in the **APB pages 33 to 308** where the ledger of accounts for collection on maintenance and the bank account statement are annexed as a proof that the collection was made during this impugned assessment year and the balance is reflected on 07/11/2016 which was deposited in the bank within the said period. Further, the list of members **APB pages 23 to 32** is annexed as proof of collection of maintenance.

5. The Ld.DR vehemently argued and fully relied on the order of revenue authorities. The Ld.DR placed that during the assessment stage, the assessee was unable to submit the proper documents before the authority.

6. We heard the rival submission and considered the documents available in the record. The assessee is a co-operative society and maintaining 12 housing

society. Every housing society maintains a separate bank account. The cash collected in SBN till dated 07/11/2016 was duly deposited in the bank. The relevant ledger copy of bank account and the details of collection statements are enclosed. The Ld.DR did not make any objection to the submission of the Ld.AR. The fact was revealed that the Ld.CIT(A) has not considered the submission of the assessee only to uphold the assessment order. The impugned deposit in SBN during the demonetization is explainable cash deposit, which are collected from the members of the society and the balance stood on dated 07/11/2016. We set aside the appeal order. The cash deposited in the bank account during said period was the balance on dated 07/11/2016. Accordingly, the addition amount to Rs.21,85,736/- is quashed.

7. In the result, the appeal of the assessee bearing **ITA No.2888/Mum/2024** is allowed.

Order pronounced in the open court on 23<sup>rd</sup> day of August, 2024.

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 23/08/2024

Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Mumbai