

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1555/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

K 2092 Chettipalayam – Primary Agricultural Co- operative Credit Society, 7/146, Angeripalayam Post, Tirupur-641 603.	v.	The ITO, Ward-1(2), Tirupur.
[PAN: AAEAK 3703 H]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri R. Bhoopathi, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	23.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	21.08.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 29.03.2024 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. At the outset, the Ld.AR of the assessee drew our attention to the legal issue that has been raised by the assessee i.e. regarding non-issuance of notice u/s.143(2) of the Income Tax Act, 1961 (hereinafter in



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short 'the Act'), despite, filing the return of income on 21.09.2021 pursuant to the notice u/s.148 of the Act which legal issue assessee has not pressed and therefore, dismissed.

3. The main grievance of the assessee is against the action of the AO framing assessment without giving proper opportunity to the assessee and relied on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC) and prayed that assessment may be restored to the file of the AO for de novo assessment.

4. It is noted that assessee is a Co-operative Society engaged in the business of providing loans to agriculturists and running ration shops. The assessee filed its return of income (RoI) for AY 2017-18 on 02.03.2018 by admitting loss of Rs.99,807/-. Since, there was cash deposits (SBNs) in its bank account during demonetization period, the AO issued notice u/s.148 of the Act conveying his desire to re-open the assessment and directed the assessee to file return of income which according to the assessee, has been filed on 21.09.2021 vide acknowledgement No.548534950210921 and the AO framed the assessment on the very next day i.e. 22.09.2021. Therefore, according to the assessee, framing of assessment without issuing notice u/s.143(2) of the Act was invalid [*which legal issue has been abandoned before us*]. It is noted that the AO taking note of the fact that, there was cash



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deposits (SBNs) of Rs.45,90,000/- during demonetization period in the bank account of the assessee, directed the assessee to file details regarding the nature & source of the cash deposits/SBNs. The assessee brought to his notice that it is a Co-operative Society engaged in the business of giving loans to the agriculturists and running ration shops. It was pointed out that the cash balance as on 11.11.2016 was deposited in the Coimbatore District Central Cooperative Bank and the nature of the cash deposits was trade receipts from the ration shops situated at various places which fact have been taken note by the AO at Para No.1 of his order. However, according to the Ld.AR, the AO took a stand that assessee didn't respond and even though assessee filed RoI on 21.09.2021 hurriedly framed the assessment the next day, adding the entire cash deposits to the tune of Rs.45,90,000/-. Be that as it may, we note that the AO didn't conduct any enquiry into the assessee's assertion that the cash deposits were from the rations shop situated at various places referred to at Para No.1 of his order, which omission on the part of the AO can't be countenanced. The assessee had given nature of the receipts (as received from the fair rations shop i.e. trade receipts) and the source of the same was the sale consideration from rations shops. However, the AO has not conducted any meaningful enquiry and therefore, for the ends of justice and fair play, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the



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Co-operative Credit Society

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AO for de novo assessment; and we direct the AO to conduct proper enquiry after hearing the assessee. The assessee is directed to file relevant documents/written submissions before the AO to prove the nature & source of the cash deposits and the AO to frame assessment in accordance to law after hearing the assessee. The Ld.AR undertakes not to agitate the legal issue regarding non-issuance of notice u/s.143(2) of the Act during the course of assessment proceedings before the AO. And the AO while framing the fresh assessment not to be influenced by any observations made by us (supra) and pass assessment order in accordance to law after hearing the assessee.

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

Order pronounced on the 21st day of August, 2024, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 21st August, 2024.

TLN, Sr.PS

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF