

IN THE INCOME TAX APPELLATE TRIBUNAL, "B" BENCH
MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER

ITA No.1834/MUM/2024
(A.Y.2017-18)

Moreshwar Nagari Sahakari Pathpedhi Limited, Gala No.52, Shankarrao Zunzarrao Vyapari Sankul, Behind Atre Natyagruh, Kalyan (W), Thane, Maharashtra-421301.	Vs.	ACIT, Circle 3, Income Tax Office, 2 nd Floor, Mohan Plaza, Wayle Nagar, Khadakpada, Kalyan(W),Thane Maharashtra-421301.
PAN/GIR No. AABAM2721L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri.SubodhRatnaparkhi.AR
Respondent by	Shri.AshokKumarAmbastha,Sr.DR

सुनवाई की तारीख/Date of Hearing	02.09.2024
घोषणा की तारीख/Date of Pronouncement	05.09.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against order of commissioner of Income Tax Appeal NFAC Delhi/CIT(A) passed u/sec 144 and sec250 of the Income Tax Act. The assessee has raised the following grounds of appeal:

1. *The Hon. CIT (A) erred in upholding the addition of Rs.79,62,500lits of unexplained money u/s 69A of the*

LT Act, 1961, on account of cash deposits of Specified Bank Notes (SBN) during the demonetization period in the bank accounts with Kalyan Janata Sahakari Bank and Central Bank of India. Kalyan Branch, not appreciating that the said deposits were made in the course of regular business activity of the appellant as a co-operative credit society and the amounts were received from members and duly recorded in the audited books of accounts.

2. *The Hon. CIT (A) erred in upholding the addition of Rs.79,62,500/- u/s 69A of the 1. T. Act, 1961, not appreciating that the provisions of section 69A dealing with unexplained money were not attracted to the facts of the matter and therefore the addition was also legally incorrect and bears deletion on that account.*
3. *The Hon. CIT (A) erred in upholding the addition of Rs.4,85,827/- made by the Id AO by disallowing the deduction claimed u/s 80P(2)(a)(i) of the L.T. Act 1961 holding that the appellant was not entitled to the said deduction for the reason that such deduction could not be allowed as the appellant had not filed return u/s 139, not appreciating that the deduction was to be granted as per law and could not be denied to the appellant when all the conditions provided by section 80P were duly complied with.*
4. *The Hon. CIT (A) erred in not granting the benefit of deduction of Rs. 50,000/- provided u/s 80P(2)(c)(ii) of the 1. T. Act, 1961 in computing the taxable income of the appellant.*
5. *The appellant craves leave to add, alter, amend and/or vary the grounds of appeal at any time before the decision of the appeal.*

2. The brief facts of the case are that, the assessee is a cooperative credit society engaged in providing credit facilities to its members. The assessee is registered under the Maharashtra co-operative societies Act 1960. The Assessing Officer (A.O) received the information that the assessee has made cash deposits in the two bank accounts(i) Kalyan Janata Sahakari Bank Ltd Rs.46,34,000/- and Central Bank of India Rs. 35,44,500/- and the total aggregate cash deposit made in the F.Y 2016-17 is Rs.81,78,500/-. Since the assessee has not filed return of income for A.Y.2017-18, the A.O has issued notice u/sec142(1) of the Act to explain and substantiate the sources of cash deposits made in the bank accounts and there was no proper compliance. Further the A.O. has issued the show cause notice and the assessee has filed the details on 24.09.2019 referred at page 7 of the order. The A.O find that the information submitted is incomplete and could not substantiate the sources of cash deposit in the bank accounts. Whereas the assessee has mentioned that the cash deposits pertaining to the collections made from the members and are deposited. Further the A.O has called for the information of members supporting the deposits. Since the assessee has partially complied with the information, the AO has invoked the provisions of section 144 of the Act and made best judgement assessment with addition u/sec69A of the Act of Rs79,62,500/- as unexplained cash deposits and denied the deduction u/sec80P(2)(a)(i) of the Act and assessed the total income of

Rs. 84,40,330/- and passed order u/sec 144 of the Act dated 25/11/2019 .

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and submissions but has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information filed in the appellate proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities and supported the submissions with the paper book and synopsis. Per Contra, the Ld. DR relied on the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in confirming the addition of cash deposits in the bank accounts though the cash deposits pertaining to the collections made from the members and are deposited in the bank accounts. The Ld.AR demonstrated the details of cash deposits sources

pertaining to the members along with statement of cash deposits during the demonetization period, KYC documents and PAN of members at Page 191 to 320 of the paper book-II. The contentions of the Ld. AR are that the evidence play a important role in the decision making of the case. We considering the facts, circumstances, submissions and evidences are of the opinion that the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making Accordingly, to meet the ends of justice and considering the principles of natural justice, we set aside the order of the CIT(A) and restore the entire disputed issues to the file of the Assessing officer to decide on merits and the assessee should be provided adequate opportunity of hearing. The assessee should cooperate in filling the information/evidences expeditiously and we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 05.09.2024.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 05/09/2024

Poonam,
Steno

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,
Mumbai