

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No. 334/Ind/2024**  
**Assessment Year: 2017-18**

Shri Swarnkar Samaj Samiti, Purana Hat Maidan, Neemuch	<b><u>बनाम/</u></b> Vs.	ITO, Neemuch
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: AARTS9688M</b>		
Assessee by	Ms.Nisha Lahoti, AR	
Revenue by	Shri K.Bala Murali Krishna, Sr. DR	
Date of Hearing	20.08.2024	
Date of Pronouncement	09.09.2024	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by appeal-order dated 15.03.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi [CIT(A)] which in turn arises out of assessment-order dated 11.12.2019 passed by learned ITO, Neemuch [“AO”] u/s 144 of Income-tax Act, 1961 [“the Act”] for Assessment-Year [“AY”] 2017-18, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The background facts leading to present appeal are such that the assessee is a registered society. The AO, on the basis of information

available in AIMS Module of ITBA, found that the assessee had made cash deposits of Rs. 20,32,700/- in an a/c with Allahabad Bank during demonetization period. The AO also found that the assessee had not filed return u/s 139. Accordingly, the AO issued notice u/s 142(1) calling assessee to file return, still the assessee did not file any return in response to AO's notice. The AO issued notices u/s 142(1)/144 which also remained uncompiled with by assessee. The AO then issued a summon dated 09.09.2019 u/s 131 to Shri Bhagat Verma, Secretary of assessee-society who attended summon-proceedings. The AO recorded statements of Shri Bhagat Verma on 13.09.2019, who explained that the assessee-society had incomes from membership fee, rent from dharmashala, interest from bank accounts and rent from shops. He further stated that the impugned deposits in bank a/c during demonetization period were made from shop rent, security-deposits (amanat), fee (namantan shulk) and advances against booking of dharmasala. However, as per AO, he did not submit supporting documentary evidences. The AO, therefore, issued show-cause notice dated 21.09.2019 calling the assessee to submit documentary evidences of sources explained by its Secretary and also making a proposal to finalise ex-parte assessment u/s 144 after making addition in case of failure to comply with such notice. Finding no response to show-cause notice, the AO ultimately made addition of Rs. 39,43,619/- in respect of cash deposits as well as non-cash deposits credited in assessee's two bank a/cs during the financial year 2016-17 relevant to AY 2017-18 under consideration.

Aggrieved, the assessee carried matter in first-appeal. During first-appeal, the assessee filed supporting evidences as required by AO by way of additional evidences but the CIT(A) rejected assessee's evidences on the footing that sufficient cause is not shown in terms of Rule 46A. Ultimately, the CIT(A) approved AO's order and upheld addition.

3. Before us, Ld. AR for assessee submitted that the AO has made addition only on the basis of statements of Secretary of assessee-society. She submitted that the assessee filed apt evidences to CIT(A) but the CIT(A) has wrongly rejected. Ld. AR submitted that the assessee made meticulous submission to CIT(A) which are re-produced by CIT(A) on Page 8 to 20 of his order. In the submissions so filed, it was clearly explained by assessee that it is a society located in a small city and its office bearers are honorary and generally do not look the income-tax portal. However, when the summon u/s 131 was issued in physical mode, the assessee's Secretary instantly attended the proceedings and in statements recorded by AO, the Secretary clearly explained the sources of deposits in bank a/cs which were correct and credible sources. The subsequent non-submission of supporting evidences occurred only because of non-checking of income-tax portal otherwise the assessee would have no reservation or hesitation in submitting supporting evidences for the satisfaction of AO. Ld. AR submitted that the evidences filed by assessee to CIT(A) are also placed in Paper-Book.

4. Per contra, Ld. DR contended that the assessee could not show "sufficient cause" to CIT(A) in terms of Rule 46A for admission of additional evidences. Ld. DR also submitted that the statements of Secretary were recorded on 13.09.2019 and in reply to Q.No. 7, the Secretary agreed to produce supporting evidence on 16.09.2019 but, however, the evidences were not filed. Thereafter, the AO issued show-cause notice dated 21.09.2019 which again remained uncomplied with. Ld. DR went on submitting that the case involves deposits in bank a/c, part of which related to demonetization period, and the evidences filed by assessee are additional evidences which need to be verified by AO. Therefore, according to him, the case can at best be sent back to AO for consideration and assessment afresh after examination of evidences.

5. We have heard learned Representatives of both sides and perused the case-record including the orders of lower-authorities and considered submissions of parties. Admittedly, the controversy in present case relates to the addition made by AO of Rs. 39,43,619/- on account of unexplained deposits in assessee's bank a/c. It is, however, discernible from assessment-order that the AO proceeded against assessee on the basis of cash-deposits of Rs. 20,32,700/- in Allahabad Bank A/c during 'demonetization period' but ultimately made addition of Rs. 39,43,619/- in respect of credits in assessee's two bank a/cs (Allahabad Bank and Jila Sahakari Bank) on account of cash-deposits and non-cash deposits during the entire financial

year 2016-17. It is also manifest from records that the assessee's Secretary responded to AO's summon u/s 131 and in reply to Q.No. 7 of the statements, clearly explained the sources of deposits having been made in bank a/c during 'demonetization period'. What remained pending was only submission of supporting evidences to AO which were not filed. But then it is also discernible that the AO has made addition for all deposits, cash as well as non-cash, for the entire financial year. The assessee has also explained that the summon u/s 131 was physically served and therefore the assessee's Secretary immediately attended but the notices/show-cause notice were sent by AO through email which remained unattended because of non-logging of income-tax portal by assessee's office-bearers who work on honorary basis. Considering all these aspects, we feel it appropriate to give one more opportunity to assessee to file evidences before AO. That would also enable the AO to take a better decision in the matter of assessee in accordance with law. Therefore and also keeping in view the principle of natural justice and fair play, we are inclined to remand this matter to the file of AO for a fresh adjudication after giving necessary hearings to assessee. The assessee is also directed to participate in the hearing to be fixed by AO without seeking adjournments unless required due to any exception, failing which the AO shall be at liberty to pass a fit order in accordance with law.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 09.09.2024

Sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 09.09.2024  
CPU/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Assistant Registrar  
Income Tax Appellate Tribunal  
Indore Bench, Indore