

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1409/Bang/2024
Assessment Year : 2018-19

M/s. Vishwas Gramina Pathina Souharda Sahakari Niyamatha Sindhanur, Sindhanur, Raichur – 584 128. PAN: AACAV2660E	Vs.	The Income Tax Officer, Ward – 1, Raichur.
APPELLANT		RESPONDENT

Assessee by	:	Shri Deepak Gunashekhar, CA
Revenue by	:	Shri Subramanian .S, Addl. CIT (DR)

Date of Hearing	:	02-09-2024
Date of Pronouncement	:	27-09-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the Ld.CIT(A) dated 19/06/2024 in respect of the Assessment Year 2018-19.

2. The brief facts of the case are that the assessee is a co-operative credit society and for the Assessment Year 2018-19, they failed to file their return of income and therefore the assessee's case was reopened u/s. 147 of the Act. Subsequently, the assessee filed their return of income on

02/05/2022. Thereafter the assessee filed their replies on various dates and the assessment was completed by treating the cash deposited into their account as unexplained cash credit u/s. 68 of the Act and also disallowed the claim of deduction u/s. 80P of the Act. The assessee challenged the said order before the NFAC and the NFAC had dismissed the appeal even though the assessee had filed all the details before them. Therefore the present appeal has been filed before this Tribunal with the following grounds of appeal:

“The Appellant objects to the order of the National Faceless Appeal Centre (NFAC) on the grounds that

<i>Grounds Raised</i>	<i>Tax Effect in INR</i>
<i>1) The impugned order is opposed to law and facts of the case insofar as it is prejudicial to the interest of the Appellant.</i>	<i>General ground</i>
<i>2) The NFAC erred in confirming the additions made by the Ld. AO treating the cash deposited by the Appellant in its bank account as deposited from unknown sources and in doing so he failed to appreciate: A) That the deposits made were out of amounts collected from the Appellant's members in the ordinary course of its business. B) That the Ld. AO had passed his order with a preset mind insofar as he failed to consider that the Appellant had submitted the details of members along with the cash collected from them.</i>	<i>Rs. 1,26,01,340/- excluding interest</i>

The appellant prays for leave to add, delete, modify and/or adduce additional ground at any time before the appeal is disposed off.

For these and such other grounds that may be adduced or removed in time to time, it is requested that the Hon'ble ITAT may be pleased to examine the case in the light of justice and grant the relief sought for.”

3. At the time of hearing, the Ld.AR submitted that all the details about the cash deposits were properly explained before the AO and also the details relating to the said transactions were also filed before the Ld.CIT(A). But the Ld.CIT(A) had failed to consider the said documents even though in the

order, the NFAC had accepted that the assessee had submitted the date wise details of transactions undertaken by the members with the assessee including cash deposits and withdrawals along with account numbers, name and address of each members. Therefore the Ld.AR submitted that the order of the Ld.CIT(A) is liable to be set aside.

4. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

5. We have heard the arguments of both sides and perused the material available on record. We have gone through the order of the Ld.CIT(A) and in para no. 5.3.1, the Ld.CIT(A) had given the following findings.

“5.3.1 I have gone through the assessment order and grounds of the appeal and submissions. During the course of appellate proceedings, the appellant had submitted the sources of cash collection from 1.4.2017 to 31.3.2018.

<i>FD simple, compound deposits collections</i>	
<i>from Members</i>	<i>Rs. 1,44,500</i>
<i>Saving deposits from members</i>	<i>Rs. 2,00,89,917</i>
<i>RD collections from members</i>	<i>Rs. 3,32,000</i>
<i>PIGMY Collections from Members</i>	<i>Rs. 32,30,646</i>
<i>Total cash collections</i>	<i>Rs. 2,37,97,063</i>

During the course of appellate proceedings, the appellant had submitted the date wise details of transactions undertaken by the members with the appellant including cash deposits and withdrawals along with account Number, name, address of the each members.”

6. But strangely the Ld.CIT(A) in para 5.3.3 of his order had given the following findings.

“5.3.3 The issue involved in this ground is source of the cash, deposited in the bank account. The AO held that it is the prime duty of the assessee to submit the information who has deposited huge cash received from the customers like name, address, PAN No.. KYC details, deposit slips. The assessee has also failed to submit the detailed information regarding the persons who has deposited the cash to this office, their

PAN No. KYC details etc. Even during the course of appellate proceedings also, the appellant simply reiterated the facts that the cash belongs to members. However, no information has been furnished. In the appellate proceedings, burden of proof lies on the appellant to prove that facts and findings of the AO are incorrect. Rather than pointing out the observations of the Assessing officer, the appellant would have filed the details in support of its claim that the cash deposited during the demonetization period is nothing but the collection received from the members with regard to their loan amounts. Since the appellant did not come forward with any supporting evidences/information responding to the notices issued so far, the appeal is dismissed. Ground No. 2 of this appeal is dismissed.”

7. From the reading of the above findings given by the Ld.CIT(A), it seems that the assessee had filed all the details relating to the transactions effected by its members and all the details of the members and their account numbers, etc. in support of their claim that the cash deposits are nothing but the cash received from the members for deposits in their various accounts and therefore it is not an unexplained cash credit to be assessed u/s. 68 of the Act. But the assessee in the statement of facts filed before the ld CIT(A) in Para 2, they averred that “Since the members are huge in number, details of few members picked randomly were uploaded”. Therefore it is evident that the assessee had not filed the details of all the members before the AO. But the Ld.CIT(A) stated in his order that all the details were filed by the assessee before him, later on he took a contra view and dismissed the appeal.

8. We, therefore, of the view that the issue has to be decided afresh and the assessee is also at liberty to produce all the details of the members from whom the amounts were received for depositing into their various accounts. We therefore feel that the matter should be remitted to the AO for passing fresh orders by taking into account the details filed by the assessee before him. We also make it clear that the AO before passing the order has to necessarily hear the assessee and pass fresh orders in accordance with law. The assessee is also at liberty to file further documents, if necessary, in

support of his claim that the cash deposits are nothing but the cash received from the members for depositing into their accounts.

9. In the result, the appeal filed by the assessee partly allowed for statistical purposes.

Order pronounced in the open court on 27th September, 2024.

The order is pronounced as per Rule 34 of the ITAT Rules.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 27th September, 2024.
/MS /

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore