

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "SMC", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,

	ITA NO. 1057/Del/2024		
	A.YR. : 2017-18		
SHRIMATI MEMORIAL SOCIETY, AGARWAL MANDI, TATIRI, BAGHPAT, MEERUT ROAD, BAGHPAT, UTTAR PRADESH-250601 (PAN: AAAAP6353L)	VS.	INCOME TAX OFFICER, WARD 1(5), BARAUT, BAGHPAT, UP-250611	
(APPELLANT)		(RESPONDENT)	

Appellant by : Shri Suresh Gupta, CA

Respondent by : Shri Sanjay Kumar, Sr. DR.

Date of hearing : 12.11.2024

Date of pronouncement : 18.11.2024

**ORDER**

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 31.10.2023, relating to assessment year 2012-13 on the following grounds:-

- i) On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in confirming the action of AO in treating the cash deposit of Rs. 29,21,000/- being unexplained cash in terms of section 69A r.w.s. 115BBE of the I.T. Act ignoring the past history of the appellant society that it has been making regular deposits of collection from students in the bank accounts.
- ii) On the facts and in the circumstances of the case, the authorities below failed to take into account that the appellant is an educational institution existing solely for the educational purpose and not for the purpose of profit and the same is eligible for exemption in view of provision of section 10(23C)(iiiad) of the I.T. Act.

- iii) On the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the action of AO in treating the cash deposit of Rs. 29,21,000/- being unexplained cash in terms of section 69A r.w.s. 115BBE of the I.T. Act ignoring the fact that the above cash has been duly accounted for in the books of account and on that ground the addition u/s. 69A is not justified.

2. The brief facts of the case are that assessee had not filed its Return of income for the A.Y.2017-18. On the basis of information under 'Operation Clean Money' that assessee had deposited cash amounting to Rs.28,50,000/- in his bank accounts during the demonetization period, notice u/s.142(1) dated 12.03.2018 was issued to the assessee for furnishing the ITR for the said assessment year i.e. 2017-18 as assessee had not filed its ITR within the time prescribed u/s. 139(1) of the I.T. Act. 1961. In compliance, no return of income was filed by the assessee. During assessment proceedings, notice u/s. 142(2) dated 16.08.2019 and 14.09.2019 was issued to the assessee requiring to explain the source of cash deposited in the bank accounts. But again, no reply was submitted by the assessee. As per assessment record, only on 29.08.2019, assessee submitted his reply as under but no explanation with regard to source of cash deposit was filed by the assessee:-

Opening cash in hand as on 01.04.2014	Closing cash in hand as on 31.03.2015	Closing cash in hand as on 31.03.2016	Closing cash in hand at the midnight of 08.11.2016
Cash book is misplaced, we will submit you	Cash book is misplaced, we will submit you	We had already submitted the	We had already submitted the cash book

2.1 During enquiry, it was found by the AO that assessee had maintained the following bank accounts during the F.Y. 2016-17:-

1. Syndicate Bank, Delhi Sharanpur Road, Baghpat A/c No. 85601250000630
2. Syndicate Bank, Delhi Sharanpur Road, Baghpat A/c No. 85603070003083
3. Syndicate Bank, Delhi Sharanpur Road, Baghpat A/c No. 85603070003831
4. State Bank Of India, Agrawal Mandi Tatiri, Baghpat A/c No. 31453287511

2.2 In the above mentioned bank accounts, the total cash was deposited Rs.

1,04,85,800/- during the FY 2016-17 in Syndicate Bank and Rs. 3,78,500/- in State Bank of India. Out of cash deposited Rs. 1,08,64,300/-, cash of Rs. 29,21,000/- was deposited during demonetization period that was remained unexplained. As the assessee failed to explain the source of cash deposit of Rs.29,21,000/-, the A.O. completed assessment u/s 144 of the Act at total income of Rs.29,21,000/-after making an addition of Rs.29,21,000/- on account of unexplained cash deposits..

3. Before the Ld. CIT(A), assessee made various submissions and it was stated that assessee-society runs an educational institution in rural areas for the last many years and most of the fee collected by the students are in cash. It was further submitted that in rural areas the cash transaction of fees is more than the online or cheque deposits and withdrawal of cash are the common practice to run the educational institutions in these areas. It was further submitted that there is no impact on account of demonetization. Assessee filed Registration Certificate, Certificate of affiliation, copy of cash book, balance sheet, income and expenditure account. Ld. CIT(A) forwarded these documents to the Assessing Officer in order to submit his Remand Report thereon. In the remand report, the AO noted that there was no compliance made by the assessee, hence, he rejected the submissions and evidences. Ld. CIT(A) upheld the same.

4. Against the Ld. CIT(A)'s order, assessee is in appeal before me.

5. I have heard both the parties and perused the records. I find that assessee is running an educational institute in rural area and authorities have themselves noted that total cash deposits is of Rs. 1,08,64,300/-. Out of which cash of Rs. 29,21,000/- was deposited during demonetization period. Thus, it is crystal clear that assessee is running educational institute and receiving fees etc. by way of cash. The adverse inference for cash deposits during demonetization period has no basis at all. The books have not been rejected and no defect has been pointed out by the revenue authorities. In these circumstances, in my considered opinion, the adverse inference drawn for cash deposits has no basis of any sound footing. Hence, I direct to delete the addition in dispute and allow the grounds raised by the assessee.

6. In the result, the Assessee's appeal is allowed.  
Order pronounced on 18/11/2024.

Sd/-

(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

SRBhatnagar

**Copy forwarded to:-**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar