

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1763/Bang/2024
Assessment Year: 2017-18

ITO Ward-1 Shivamogga	Vs.	Krishik Souharda Sahakari Niyamitha Ground Floor Market Road Sagar 577 401 Karnataka PAN NO : AAAAK4474H
APPELLANT		RESPONDENT

Assessee by	:	Sri Madhukar G Hegde, A.R.
Revenue by	:	Ms. Neha Sahay, D.R.

Date of Hearing	:	12.11.2024
Date of Pronouncement	:	20.11.2024

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

Present appeal of the revenue is arising from the order of Id. CIT(A) dated 16.7.2024 and relates to assessment year 2017-18 having DIN & Order No. ITBA/NFAC/S/250/2024-25/1066761857(1) passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

2. Facts giving rise to the filing of present appeal are that the assessee is a Co-operative society registered under the Souharda Co-operative Society Act and engaged in the business of lending money to its members. For the year under consideration, the assessee has filed its return of income on 30.10.2017 declaring Nil income after claiming deduction u/s 80P of the Act. Thereafter, the case of the

assessee was selected for scrutiny. During the course of assessment proceedings, the ld. AO observed that the assessee has deposited an amount of Rs.1,03,48,500/- in cash in its various bank accounts during the course of demonetization period. The AO was of the view that the amount of cash deposited is taxable u/s 68 of the Act @ 60% in as much as the assessee failed to explain the source of the cash deposited during demonetization period. Aggrieved with the order of AO, the assessee preferred appeal before the ld. CIT(A) and contended that the observations of the AO are not correct. The ld. CIT(A) after considering the submissions of the assessee and certain material on record allowed the appeal of the assessee. Now the revenue has come up in appeal before us.

3. The department has taken following grounds of appeal:

1. *“Whether in the facts and circumstances of the case, the ld. CIT(A) was right in law in admitting the fresh details filed for the first time in appellate proceedings without allowing sufficient and meaningful opportunity to the Assessing Officer for verification of the same as provided in Rule 46A of Income Tax Rules?”*
2. *Whether in the facts and circumstances of the case, the ld. CIT(A) was right in law in deleting the addition made towards unexplained cash deposits by placing reliance upon fresh details filed for the first time in appellate proceedings without remanding matter back to the Assessing Officer for verification?”*

4. The ld. D.R. appearing on behalf of the revenue has mainly argued that the ld. CIT(A) has violated the provisions of Rule 46A of the Income Tax Rules by placing reliance on certain fresh details filed by assessee before the ld. CIT(A). The contention of the ld. D.R. is that the ld. CIT(A) ought to have called for remand report from the AO and then could have adjudicated the matter.

5. Ld. Counsel for the assessee appearing virtually has argued that the assessee has filed all the relevant details before the AO and

there is no violation of Rule 46A of the Income Tax Rules. During the course of hearing, the Bench has put a question to the Id. A.R, whether KYC details of the depositors were given to the AO. The counsel for the assessee could not be able to answer satisfactorily.

6. We have heard the rival submissions and considered the material available on record. We observe that in this case, the assessee has deposited SBN notes in its bank account after the declaration of demonetization and the assessee has failed to substantiate the source of this cash deposited before the AO. Now the Id. CIT(A) without calling for the remand report from the AO has allowed the appeal of the assessee. Therefore, considering the facts and circumstances of the case, we restore the matter to the file of AO for examining afresh with a direction to the assessee to provide the KYC details of the members from whom cash has been received by the assessee. We order accordingly.

7. In the result, appeal of the revenue is allowed for statistical purposes.

Order pronounced in the open court on 20th Nov, 2024

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 20th Nov, 2024.
VG/SPS
Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.