



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT
MEMBER AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1777/PUN/2024

निर्धारण वर्ष / Assessment Year: 2017-18

Maharudra Gramin Bigarsheti sahakari Patsanstha Ltd., At Post Sonjamb Nashik, Nashik – 422205. PAN: AAABM0839M	V s	The Income Tax Officer, Ward-1(2), Nashik.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Sanket Joshi – AR
Revenue by	Shir Manish Mehta – Addl.CIT(DR)
Date of hearing	04/12/2024
Date of pronouncement	12/12/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the order of
ld.Commissioner of Income Tax(Appeals)[NFAC] for Assessment
Year 2017-18 dated 20.02.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :

“1. The learned CIT(A) erred in confirming the addition u/s 68 of
Rs.23,78,500 towards alleged unexplained cash deposits made in bank



account during demonetization period without appreciating that the said addition was not justified in law and on facts.

2. *The learned CIT(A) failed to appreciate that the said cash deposits of Rs.23,78,500 were made out of SBNs deposited by members of the assessee credit society and since the identity of the members and genuineness of the said deposits was not doubted by the Dept., the addition made u/s 68 in respect of such cash deposits was not justified in law and on facts.*

3. *The learned CIT(A) ought to have appreciated that assuming without admitting that the assessee credit society was not permitted by Govt. to accept old SBNs from its members, still it is to be noted that no addition u/s 68 could have been made in the hands of the assessee society once it was established that the said cash deposits were made out of income belonging to the members and it did not represent any income of the assessee society and therefore, the said addition was not justified in law and on facts.*

4. *Without prejudice to the above ground, it is submitted that as per the provisions of section 5 of Specified Bank Notes (Cessation of Liability) Act, 2017 and other provisions, the restriction placed on acceptance or transfer of SBNs was from 31.12.2016 and hence, even on this count, there was no violation on the part of the assessee society under the said law in accepting deposits from its members prior to 31.12.2016 and therefore, the reason stated by the lower authorities for making the above addition u/s 68 is also factually incorrect.*

5. *Without prejudice to the above grounds, it is submitted that the said income ought to have been treated as business income and the deduction u/s 80P(2)(a) should have been allowed in respect of the said income of Rs.23,78,500 allegedly earned by the assessee credit society.*

6. *The appellant craves leave to add/alter/ amend any of the grounds of appeal.”*

Submission of Id.AR :

2. The Id.Authorised Representative of the assessee submitted that Assessing Officer(AO) has made an addition of Rs.23,78,500/- under section 68 of the Act. Assessee had deposited cash of

Rs.23,78,500/- on 11.11.2016 i.e. during the period of Demonetization. The cash deposited was in the form of specified bank notes of 500 and 1000 which were Demonetized. Ld.AR submitted that these amounts were collected from the members of the Patsanstha towards their repayment of loan or installments. During assessment proceedings, list of members along with their PAN Numbers and amount deposited was provided to the Assessing Officer. Not only that, the assessee had filed an elaborate reply online under the heading “Cash Transactions 2016”, with list of Individuals, PAN Numbers and Amount Deposited. This submission was made as per the directions of the Income Tax Department. Ld.AR filed copy of the same during the hearing before this Tribunal. Ld.AR submitted that again elaborate submissions was made before AO and ld.CIT(A) with all the details of the depositors. Thus, assessee has established that money belongs to assessee, therefore, no addition can be made in the hands of the assessee. The ld.AR relied on the following case laws :

- *ITO V. C.D. Patani Nagari Sahakari Patsanstha [ITA No. 727/PUNE/2022] dated 28.03.2023.*
- *Shreejit Finance Pvt. Ltd. v. ACIT [ITA No. 439/PUNE/2022] dated 22.04.2024.*

- *Bhagur Urban Credit Co-op. Society Ltd. v. ITO [ITA No. 561/PUNE/2022] 16-19 dated 03.01.2023.*
- *ITO V Ambika Gramin Bigersheti Sahakari Patsanstha [ITA No. 1104/PUNE/2023] dated 04.06.2024.*
- *Mauli Mahila Nagari Sahakari Pastsanstha Ltd. v. ITO [ITA No. 1351/PUNE/2023] dated 12.09.2024.*

Submission of ld.DR :

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records. It is observed from the record that there is delay of 125 days for filing appeal before this Tribunal. We have perused the submission of the assessee and are convinced that there was sufficient cause for delay. Accordingly, Delay is condoned.

4.1 In this case, admittedly assessee is a Credit Co-Operative Society engaged in providing credit facilities to its members. The Assessing Officer observed that assessee had deposited Rs.23,78,500/- in the bank account maintained by assessee on 11.11.2016 in the form of Demonetized Currency. The AO made an addition under section 68 of Rs.23,78,500/- on the ground that

assessee was not authorized to collect Demonetized Currencies after 08.11.2016. However, on perusal of the assessment order, no evidence has been brought on record by the Assessing Officer to demonstrate that the amount which was deposited has been collected by the assessee after 08.11.2016. It is mentioned in the assessment order that assessee had filed list of its members along with PAN. There is no dispute that the persons who have deposited these amounts were Members of the assessee.

4.2 This issue has been decided by ITAT Pune in ITA No.561/PUN/2022 Bhagur Urban Credit Co-operative Society Limited as under :

“4. I have heard the rival submissions and perused the relevant material on record. It is seen that the assessee is a Urban Cooperative Credit Society which received Rs.1,78,400/- from 15 depositors whose all the necessary particulars have been given. The list comprises receipt of Rs.85,970/- from 3 small saving agents and Rs.94,000/- from 12 customers. The assessee furnished necessary details in respect of the depositors. The AO refused to accept the genuineness of the transaction and made the addition u/s.68 of the Act. The Id. AR has brought to my notice an order passed by the Bangalore Bench of the Tribunal in Prathamika Krushi Pattina Sahakari Sangha Niyamitha Itagi Pkpssn (ITA No.593/Bang/2021) dt. 01-06-2022 in which the addition made under similar circumstances has been deleted. In this order, the Tribunal relied on another order in Bhageeratha Pattina Sahakara Sangha Niyamitha Vs. ITO ITA No.646/Bang/2021 dt. 18-02-2022, that has been referred to in para 5 of the order. No contrary order on such facts, in favour of the Revenue, has been brought on record by the Id. DR. Respectfully following the precedent, I overturn the impugned order and direct to delete the addition of Rs. 1,78,500/- sustained in the first appeal.”

4.3 It is also observed that ITAT Pune in identical facts on following cases has allowed the appeal of the assessee :

“4. I have heard the rival submissions and perused the relevant material on record. It is seen that the assessee is a Urban Cooperative Credit Society which received Rs.1.78.400/- from 15 depositors whose all the necessary particulars have been given. The list comprises receipt of Rs.85,970/- from 3 small saving agents and Rs.94,000/- from 12 customers. The assessee furnished necessary details in respect of the depositors. The AO refused to accept the genuineness of the transaction and made the addition w/s.68 of the Act. The Id. AR has brought to my notice an order passed by the Bangalore Bench of the Tribunal in Prathamika Krushi Pattina Sahakari Sangha Niyamitha Itagi Pkpssn (ITA No.593/Bang/2021) dt. 01-06-2022 in which the addition made under similar circumstances has been deleted. In this order, the Tribunal relied on another order in Bhageeratha Pattina Sahakara Sangha Niyamitha Vs. ITO ITA No.646/Bang/2021 dt. 18-02-2022, that has been referred to in para 5 of the order No contrary order on such facts, in favour of the Revenue, has been brought on record by the ld.DR. Respectfully following the precedent, I overturn the impugned order and direct to delete the addition of Rs.1,78,500/- sustained in the first appeal.”

4.4 In these facts and circumstances of the case and respectfully following the ITAT Pune Orders, we direct the AO to delete the addition of Rs.23,78,500/-. Accordingly, grounds of appeal raised by the assessee are allowed.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 12th December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 12th Dec, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.