

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "A" Bench, Mumbai.

Before Shri Anikesh Banerjee (JM)
& Shri Omkareshwar Chidara (AM)

I.T.A. No. 5676/Mum/2024 (A.Y. 2016-17)

Amrut Lahri Sahakari Sanstha Maryadit 10, Old Maneklal Chawl, B/H Telephone Exchange Ghatkopar West, LBS Road Mumbai-400 086. PAN : AABAA0091P (Appellant)	Vs.	ITO Ward 27(1)(1) 3 rd & 4 th Floor 6 th Tower, Railway Station Building, Vashi Navi Mumbai 400 703. (Respondent)
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Assessee by	Shri Bhupendra Shah
Department by	Shri Ram Krishn Kedia
Date of Hearing	11.12.2024
Date of Pronouncement	12.12.2024

ORDER

Per Omkareshwar Chidara (AM) :-

The above cited case, the Cooperative Society deposited cash of Rs. 79,97,080/- and this appellant was non-filer. A show-cause notice was issued by the department under section 148A(b) of the Income Tax Act (the Act for short) requesting the appellant to furnish explanation about the source of cash deposited alongwith supporting documents/evidences. Seven opportunities were given to the appellant and since there was no compliance, the learned Assessing Officer (AO for short) has completed the assessment u/s. 144(1) of the Act by drawing a conclusion that the appellant cooperative society does not have any explanation to submit the sources of cash deposits. Hence, entire amount was added as appellant's unexplained cash credit u/s. 68/115BBE of the Act while finalising the assessment.

2. Aggrieved by the addition made by the Ld. AO, appellant cooperative society filed an appeal before the learned Commissioner of Income Tax

(Appeals) [the Ld. CIT(A) for short]. In reply to the show-cause notice issued by the Ld. CIT(A), the appellant cooperative credit society has stated that they mobilised funds from the members of their society and the same are given as loan to the needy members of the society. The cash deposits made in the bank account are nothing but loan recovery made from the members. It was submitted that the interest receipts of the cooperative bank are eligible for deduction u/s. 80P of the Act. It was further submitted that during the financial year, the appellant has not earned any profit and in fact incurred a loss of Rs. 41,767/- and hence return of income was not filed. In view of the above, the appellant requested Ld. CIT(A) to drop astronomical demand and penalty thereon.

3. Additional evidence filed before the Ld. CIT(A) was not considered by him, because additional evidence was not submitted in accordance with the procedure laid under rule 46 of the Income Tax Rules. Since the appellant failed to produce books of account before the Ld. AO despite several opportunities given to them, it was held that the Ld. AO has correctly made addition. Thus, addition made by the Ld. AO was confirmed by the Ld. CIT(A).

4. Aggrieved by the orders of the Ld. AO and the Ld. CIT(A), further appeal was instituted by the appellant cooperative society stating that their contentions were not considered by the Ld. CIT(A) and appeal was summarily dismissed. After perusal of the orders of the Ld. AO and the Ld. CIT(A), it is observed that the issues were not properly addressed. It is a fact that the appellant did not appear before the Ld. AO, but the Ld. CIT(A) did not entertain fresh evidences and dismissed the appeal. As there was no effective opportunity to the appellant cooperative credit society to explain source of cash deposits, it is decided that an opportunity is being given now and hence issue is remitted back to the file of the Ld. AO with a direction to look into all facts afresh and pass a speaking order.

5. As mentioned above, the file is remitted back to the file of the Ld. AO and appeal is allowed for statistical purposes.

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

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 12.12.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai