

**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, AM.**

**&**

**DIESH MOHAN SINHA, JM**

**आयकर अपीलसं./ITA No.660/RJT/ 2024**

**(निर्धारण वर्ष / Assessment Year: (2018-19)**

**(Hybrid Hearing)**

Shree Mevasa Seva Sahkari Mandali Limited. Mahesh Paun Advocate, Shreeji Chambers, 17-Nava Para, Near SBI, Jam-khambhaliya-361305.	<b>Vs.</b>	ITO Ward-1, Dwarka.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAMAS6799K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Mahesh Paun, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/ **Date of Hearing** : **19/12/2024**

घोषणाकीतारीख/**Date of Pronouncement** : **22/01/2025**

**आदेश / ORDER**

**PER DINESH MOHAN SINHA, JM:**

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 12/07/2024, which in turn assessment order passed by Assessing Officer vide order dated 29/03/2023 under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short “the Act”).

2. Grounds of appeal raised by the assessee are as under:

1) Learned A.O, erred in law as well facts in making addition of Rs. 2,10,07,175/- u/s. 69A of the Act with heavy demand of Rs. 3,49,00,242/-. As well as Ld. Commissioner of Appeals (NFAC) also erred in law and fact by dismissing the appeal of Income Tax regarding huge

*addition of Rs. 2,10,07,175/- u/s. 69A of the Act with heavy demand of Rs. 3,49,00,242/- by the Ld. Officer .*

*2) Learned A.O. erred in law as well facts by considering the credit of Rs. 2,10,07,175/- into the bank is unexplained income and making huge addition u/s. 69A of the act and initiate the penalty proceeding u/s. 271AAC(1) r.w.s 115BBE separately with heavy demand of Rs. 3,49,00,242/-. As well as Ld. Commissioner of Appeals (NFAC) by not considering the fact that credit of Rs. 2,10,07,175/- into the bank is generated from the activates made by society to help the farmer members and for the agricultural purpose, having recorded in the books of accounts, supported with documentary evidences which is erroneous, against the principle of nature of justice and against the law.*

*3) Learned A.O. erred in law as well facts by not giving effective opportunity of being heard and by exparty order to huge addition of Rs. 2,10,07,175/-. As well as Ld. Commissioner of Appeals (NFAC) also erred by not considering the statement of facts, not giving effective opportunity to being heard and by ex-party order to dismissed the appeal.*

*4) Learned A.O. erred in law as well as on facts making assessment u/s. 147 r.w.s, 144 of the Act.*

*5) Appellant craves leave to add, amend, alter or withdraw any ground of appeals.*

3. Facts of the case are that assessee is a registered Co-Operative Society main object of the society is to work for the betterment of farmers and helping them for the cultivation (farming) by providing advance (finance) at competitive rate for agricultural purpose. Information was received to ITO Ward 1(4), Jamnagar at INSIGHT Portal that Cash deposit or cash withdrawals entered in current account of The Jamnagar District Co Operative Bank Ltd. of Rs. 1,36,18,200/- and Payment made in respect of credit cards during the financial year of Rs. 23,56,000/-. Accordingly, Ld. AO on the bases of above, issued notice U/s. 148A of the act on 16-03-2022 and asked to why a notice u/s 148 of the Income Tax Act, 1961 should not be issued on the basis of information suggest that income chargeable to tax to the tune of Rs. 1,59,74,200/-has escaped the assessment within meaning of section 147 of the Income Tax Act, 1961. Members of the co-operative society (Appellant) are very lower educated, not having knowledge of English, living in a small village where basic facility of electricity, water etc are not available properly, also facility of accounting is not available. Therefore, they had appointed an accountant at village Devaliya which is 10 KM far from their village. But the accountant was on leave. Thus, due to absence of concern person and ignorance of particular provision of accounting and law your appellant could not submit their reply on the given

date. Your appellant have been not given sufficient opportunity for the submission, explanation and passed an order u/s 148 of the Act on 31-03-2022.

4. Accordingly notice u/s. 148 of the Act dated 31.03.2022 was issued online through ITBA portal. In view of above various notices were issued to the assessee for filing the return of income and explanation of cash deposits and cash withdrawals etc.

5. Then after show cause notice was issued on 13.03.2023 in show cause notice Ld. AO assume that "cash deposits/withdrawal amounting Rs. 1,36,18,200/-(Cash deposit- 1,35,17,000/- and cash withdrawal-1,01,200/) and deposited cash of Rs. 23,56,000/- in the bank account Nos. 612034077960 & 112000704555 respectively maintained with The Jamnagar District Co-op Bank Ltd during the year under consideration. On further perusing, assumed that total credits of. Rs. 1,84,91,175/- and Rs.25, 16,000/- in acc. No. 612034077960 & 112000704555"

6. Due to absence of concern person and ignorance of particular provision of accounting and law assessee could not submit its replies on the given date. Moreover due to any technical reason reply could not upload on last given date then proceeding was showing as closed.

7. The assessee had not responded to any notices issued by the Ld. AO. Therefore Ld. AO finalized the assessment to the best of the judgment of the assessing officer on basis of material available on record and made addition of Rs. 2,10,07,175/- u/s 69A as unexplained income.

8. Aggrieved by the order of the Ld. AO dated 29/03/203 u/s 147 r.w.s. 144 assessee carried the matter to the Ld. CIT(A). The details of opportunities provided to the assessee for hearing, and the outcome are detailed below:

Sr. No.	Date of Hearing	Remarks
01	29/12/2023	No Compliance
02	11/06/2024	No Compliance
03	26/06/2024	No Compliance

9. There was no compliance with the notices which were sent on email id kapun683@gmail.com i.e. mentioned in Form No. 35 filed by the assessee. Ld.

CIT(A) observed that assessee is not interested in pursuing the appeal and in absence of any submission of the assessee Ld. CIT(A) stated that there was no reason to interfere with the order of the Ld. AO and dismissed the appeal of the assessee.

10. Aggrieved by the order of the Ld. CIT(A) assessee is in appeal before us.

11. The Ld. AR of the assessee submitted that notices were issued to the assessee. However, assessee could not comply with notices and requested for one more opportunity to explain the case before the lower authority. On the other hand Ld. Sr. DR on behalf of the revenue has relied on the order of the Ld.AO. However had not objected to the prayer of the assessee.

12. We noted that the notices issued by the Ld. CIT(A) for hearing of the case but the order is silent on service of notice upon the assessee. We further observed that the assessment was frame ex-parte by the Ld. AO. We note that the assessee has not made the compliance of the notice for hearing issued by the Ld. AO. We note that the assessee has not given due care and attention to the case. We further note that assessee has a non-cooperative attitude towards the notices issued for the hearings. In this situation we are imposing cost of Rs. 5,000/- to the department with DLSA (District Legal Service Authority) and deposit receipts is also to be submitted with the Registrar of the Tribunal.

13. We are of the view that in the interest of justice one more opportunity should be given to the assessee to present his case before lower authority and remand the matter back to the file of the Ld. AO for fresh adjudication on merits. After giving due opportunity to the assessee and the assessee is further directed to comply with the notices and submit all the as and when called for by the Ld. AO.

14. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 22/01/2025**

**Sd/-**  
**(A. L. SAINI)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

Rajkot

दिनांक/ Date:22/01/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot