

INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH : VISAKHAPATNAM

[THROUGH VIRTUAL HEARING]

BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER  
AND  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

ITA.Nos.313 & 314/VIZ./2024  
Assessment Years 2018-2019 & 2019-2020

Ujwala Mahila Mutually Aided Co-Op Thrift and Credit Society Limited, GANNAVARAM – 521 101 Krishna District. PAN AAAAU8111B	vs.	The Income Tax Officer, Ward-3(1), VIJAYAWADA.
(Appellant)		(Respondent)

For Assessee :	Shri S. Rama Rao
For Revenue :	Dr. Aparna Villuri, Sr. AR

Date of Hearing :	13.03.2025
Date of Pronouncement :	19.03.2025

**ORDER**

**PER MANJUNATHA G. A.M. :**

The above twin appeals are filed by the assessee viz., Ujwala Mahila Mutually Aided Co-Op Thrift and Credit Society against the separate orders dated 10.07.2024 and 12.07.2024 of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC”], Delhi, relating to assessment

years 2018-2019 and 2019-2020, respectively. Since, identical issues are involved in these appeals, these appeals were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity.

ITA.No.313/VIZ./2024 – A.Y. 2018-2019 :

2. Facts of the case, in brief, are that the assessee has not filed its return of income for the assessment year 2018-2019 on or before the due date u/sec.139(1) of the Income Tax Act, 1961 [in short “the Act”]. The case was subsequently reopened u/sec.147 of the Act for the reasons recorded as per which specific information was flagged as per Risk Management Strategy formulated by the CBDT through Insight/ITBA software under the head "High Risk CRIU/VRU cases". As per the information, the assessee has made cash deposits in its Bank account of Rs.1,29,25,029/- during the financial year relevant to assessment year 2018-2019 under consideration, but, has not filed its return of income. Accordingly, the case of the assessee-society was reopened u/sec.147 of the Income Tax

Act, 1961, after obtaining prior approval from the competent Authority and notice u/sec.148 of the Income Tax Act, 1961 was issued to the assessee-society on 07.04.2022. In response to the notice, the assessee has not filed its return of income. The case of assessee-society was selected for scrutiny and the Assessing Officer issued various notices u/sec.142(1) on 13.10.2023 and called-upon the assessee to explain the source for cash deposit into bank account. Since the assessee has failed to file relevant evidences, the Assessing Officer has passed best Judgment assessment order u/sec.147 r.w.s.144 of the Act dated 14.03.2024 and determined the total income of the assessee at Rs.10,88,532/- by making addition of Rs.10,88,532/- towards estimation of 8% profit on total cash deposits of Rs.1,36,06,656/-.

3. Being aggrieved by the assessment order, the assessee filed an appeal before the learned CIT(A). Before the learned CIT(A), the assessee has challenged the validity of notice issued u/sec.148 of the Act dated 14.03.2024 in light of approval from the CIT in light of amended provisions

of sec.148 which is applicable on or after 01.04.2021. The assessee had also challenged the additions made by the Assessing Officer towards estimation of profit on cash credits. The learned CIT(A), after considering the relevant submissions of the assessee and also taken note of provisions of sec.151 of the Act held that, notice issued u/sec.148 of the Act with the approval of the CIT is bad in law and liable to be quashed because as per the provisions of sec.151, the Competent Authority is CCIT/PCCIT, but, not the CIT. Therefore, by following the decision of Hon'ble Delhi High Court in the case of Ashok Kumar Makhijav vs. Union of India [2024] 162 taxmann.com 514 (Del.), allowed the ground no.3 of the assessee. Further, the learned CIT(A) has upheld the additions made by the Assessing Officer towards 8% profit on total cash credits on the ground that the assessee-society is not able to establish source of cash deposit into the bank account. The learned CIT(A) had also rejected the grounds taken by the assessee seeking deduction u/sec.80P of the Act on the ground that since the assessee-society had not filed the return of income on or

before the “due date” u/sec.139(1) of the Act as per the provisions of sec.80AC of the Act, the deduction provided under Chapter-VIA including deduction u/sec.80P cannot be allowed.

4. Aggrieved by the order of the learned CIT(A), the assessee is now in appeal before the Tribunal.

5. Learned Counsel for the Assessee Shri S. Rama Rao, referring to para 6.6 of the learned CIT(A)'s order submitted that once the learned CIT(A) has held that, the notice issued u/sec.148 was not by the Competent Authority and, therefore, treated the assessment itself as invalid and allowed the ground raised by the assessee, it is as good as the assessment order passed by the Assessing Officer is no longer in existence and, therefore, any addition made by the Assessing Officer cannot be discussed. Although, the learned CIT(A) held assessment order passed by the Assessing Officer was invalid, but, discussed the issue on merit and uphold the additions made by the Assessing Officer. Therefore, he submitted that the order passed by the learned CIT(A) should be set aside.

6. Learned DR, on the other hand, supported the order of the learned CIT(A) and submitted that if we go by the grounds of appeal filed by the assessee before the Tribunal, there is no challenge to the legal issue. However, the assessee has only filed grounds which are against the additions sustained by the learned CIT(A). Therefore, the arguments of the assessee is not on the basis of the grounds of appeal and needs to be rejected.

7. We have heard both the parties, perused the material on record and the orders of the authorities below. We find that the learned CIT(A) in para 6.6 of the order dated 10.07.2024 held that notice issued u/sec.148 of the Act with the approval of the CIT appears to be wrong and consequently, the notice issued u/sec.148 of the Act and assessment order becomes invalid. Once the learned CIT(A) held that the notice u/sec.148 and consequent assessment order is invalid, then, the learned CIT(A) cannot discuss the issues involved in the appeal on merits. In the present case, although, the learned CIT(A) held the assessment order as invalid, but, uphold the additions made by the Assessing

Officer towards estimation of profit on cash deposits @ 8%. Therefore, we are of the considered view, that the learned CIT(A) is erred in discussing the issues on merits and uphold the additions made by the Assessing Officer. Thus, we set aside the order of the learned CIT(A) in deciding the additions on merits and discussed in his order at para nos.6.8 to 6.11 and uphold the findings of the learned CIT(A) in para no.6.6 of his order in quashing the assessment order passed by the Assessing Officer. Accordingly, the grounds of appeal of the assessee are allowed.

8. In the result, ITA.No.313/VIZ./2024 of the Assessee is allowed.

ITA.No.314/VIZ./2024 – A.Y. 2019-2020 :

9. For the assessment year 2019-2020, the assessee has deposited cash in the Andhra Bank bank account to the tune of Rs.2,47,36,276/- and on identical facts, the learned Assessing Officer issued notice u/sec.148 of the Act on 30.03.2023 calling the assessee to explain the source of the

cash deposits made into the bank account. The Assessing Officer also issued notice u/sec.142(1) of the Act on 12.10.2023. In response to the said notices, the assessee has furnished explanation contending inter alia, that the assessee-society dealing with 45 Mahila Svayam Seva Kendram Groups and the cash deposits in the bank are belongs to Groups' transactions only, but, not of any business income and there is no loss or profit in the transactions. However, the learned Assessing Officer, did not satisfied with the explanation of the assessee and has estimated the income of the assessee @ 8% i.e., Rs.19,78,902/- out of the total cash deposits of Rs.2,47,36,276/-, in absence of satisfactory explanation offered by the assessee by furnishing nature and source of cash deposits/credit entries in the bank account maintained with the Andhra Bank, vide order dated 16.03.2024 passed u/sec.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961 [in short "the Act"].

10. Being aggrieved by the assessment order, the assessee filed an appeal before the learned CIT(A) and the

learned CIT(A), sustained the addition made by the Assessing Officer towards estimation @ 8% profit. However, re-computed the total credits in bank account of Rs.1,14,96,127/- as against the total credits arrived at by the Assessing Officer of Rs.2,47,36,276/-.

11. Aggrieved by the order of the learned CIT(A), the assessee carried the matter in appeal before the Tribunal.

12. Learned Counsel for the Assessee submitted that the assessee has filed relevant financial statements and reported net profit of Rs.44,457/- for the year ending 31.03.2019 and these financial statements has been filed before the learned CIT(A). However, the learned CIT(A) ignored the evidences filed by the assessee and estimated 8% profit on total credits, without appreciating that assessee-society is a mutually aided co-operative society for the benefit of members and there cannot be any estimation of profit on adhoc basis. Therefore, he submitted that the matter may be remitted back to the file of Assessing Officer for fresh verification.

13. Learned DR, on the other hand, supporting the order of the learned CIT(A) submitted that the assessee-society could not file relevant evidences before the Assessing Officer or the learned CIT(A) to justify the financial statements prepared for the year under consideration. Therefore, the learned CIT(A) has rightly sustained estimation of profit @ 8% and accordingly submitted that the order of the learned CIT(A) should be upheld.

14. We have heard both the parties and considered the relevant arguments of the Learned Counsel for the Assessee and the Learned DR and the reasons given by the Assessing Officer and the learned CIT(A) in their respective orders in estimating the profit @ 8% on total credits in the bank account maintained with Andhra Bank. We find that the assessee-society is a mutually aided cooperative credit society and maintains regular books of accounts which are audited by an Accountant and, therefore, the Assessing Officer without assigning for any reasons, book results cannot be rejected. Although, the assessee could not file relevant financial statements before the Assessing Officer,

but, filed bank statements and also explained the reason for not filing the financial statements before the Assessing Officer. Therefore, in our considered view, the learned CIT(A) ought to have considered the bank statements filed by the assessee before upholding the estimation of 8% profit on total credits. Further the assessee argued that the assessee-society is a mutually aided cooperative society for the benefit of members and that the benefit of mutuality needs to be examined by the Assessing Officer. Therefore, we are of the considered view, that the matter in issue needs to be examined by the Assessing Officer afresh. We, therefore, set aside the order of the learned CIT(A) and restore the issue back to the file of Assessing Officer for *de novo* verification in light of any evidences that may be filed by the assessee-society to substantiate its claim.

15. In the result, ITA.No.314/VIZ./2024 of the assessee is allowed for statistical purposes.

16. To sum-up, ITA.No.313/VIZ./2024 of the assessee is allowed and ITA.No.314/VIZ./2024 of the assessee is allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 19.03.2025.

Sd/-  
[K. NARASIMHA CHARY]  
JUDICIAL MEMBER

Sd/-  
[MANJUNATHA G]  
ACCOUNTANT MEMBER

Hyderabad, Dated 19<sup>th</sup> March, 2025

VBP

Copy to

1.	Ujwala Mahila Mutually Aided Co-Op Thrift and Credit Society Limited, Pamarthi Nagar, Gannavaram Mandal, GANNAVARAM - 521 101, Krishna District.
2.	The Income Tax Officer, Ward-3(1), VIJAYAWADA.
3.	The Pr. CIT, Vijayawada.
4.	The DR ITAT, Visakhapatnam Bench, Visakhapatnam.
5.	Guard File

//By Order//

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