

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 2419/Bang/2024
Assessment Year : 2019-20

The Income Tax Officer, Ward – 1, Kolar.	Vs.	M/s. Chikkaankandhalli Raithara Seva Sahakara Sanga Niyamitha, Chikkaankandahalli Village & Post, Bangarpet Taluk, Kolar – 563 114. PAN: AABAC0778M
APPELLANT		RESPONDENT

Assessee by	:	Shri Raj Kumar .J, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	28-01-2025
Date of Pronouncement	:	24-03-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the revenue challenging the order of the NFAC, Delhi dated 18/09/2024 in respect of the A.Y. 2019-20 and raised the following grounds:

“1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made u/s 69A when the assessing officer has relied on the examination of submissions made by the assessee during the course of assessment proceedings u/s 147.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in admitting the additional

evidence without giving sufficient opportunity to the assessing officer as per the provisions of rule 46A.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in passing the order u/s 25C, without giving an opportunity to the assessing officer to comment on the admissibility of additional evidence and merits as per provisions of rule 46A.”

2. The brief facts of the case are that the assessee is a co-operative society extending loans to its members. In respect of the said A.Y., the assessee had not filed their return of income. The case was taken up for assessment since large financial transactions were done by the assessee during the year. Thereafter the 148A(b) and 148 notices were issued for which the assessee filed their return of income on 17/10/2023. Thereafter, the assessee filed various details including the copy of the bank statements, computation of income, form 26AS and other documents in local language. The AO in spite of the reply and the documents produced before him, had treated the cash deposits as unexplained income u/s. 69A of the Act. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and contended that the cash deposits made into the bank accounts are nothing but the loan amount repaid by the members which was later on deposited into the assessee's bank account and therefore the said deposits could not be treated as unexplained money u/s. 69A of the Act. The Ld.CIT(A) had also considered the various documents submitted before the AO had come to the conclusion that the cash deposits made into the bank account of the assessee cannot be termed as unexplained money u/s. 69A of the Act. The Ld.CIT(A) before coming to the above said conclusion had also sought for the remand report from the assessing officer on 09/07/2024 in order to give the comments on the admissibility of the additional evidences under Rule 46A of the Rules but unfortunately the AO had not made any comments by sending a remand report and therefore the Ld.CIT(A) admitted the said documents and decided the issue on merits.

3. Insofar as the claim made u/s. 80P of the Act, the Ld.CIT(A) had not accepted the case of the assessee since the return of income was filed beyond the statutory period prescribed. As against the said order, the revenue is in appeal before this Tribunal.

4. At the time of hearing, the Ld.DR mainly relied on the admission of the additional evidences under Rule 46A of the Rules. The Ld.AR submitted that all the documents were placed before the AO but the AO had not looked into the documents since the same are in the local language and therefore it is not the case of the department that no documents were placed before the AO. The Ld.AR further submitted that in spite of the fact that the documents were produced before the AO, the assessee also produced the same before the Ld.CIT(A) and therefore the Ld.CIT(A) had sought for a remand report from the AO but unfortunately the AO had not sent any remand report and thereafter only the Ld.CIT(A) had admitted the said documents and decided the issue on merits and therefore the order of the Ld.CIT(A) is a well considered one and hence the appeal of the revenue is to be dismissed.

5. We have heard the arguments of both sides and perused the materials available on record.

6. We have perused the assessment order in which to the various notices issued by the AO, the assessee had filed their reply as well as the documents such as members list and the copy of the bank statements, computation of income, form 26AS and other documents in local language to show that the loan amounts repaid by the members were deposited into their bank accounts and therefore the said cash deposits could not be treated as unexplained income u/s. 69A of the Act. The AO also obtained the bank statements from the banks by issuing notice u/s. 133(6) of the Act. In spite of the fact that all the documents were filed before the AO, the AO had not verified some of the documents for the reason that the same is in

local language. Anyhow the assessee once again filed all the documents before the Ld.CIT(A) with a request to admit the said additional documents under Rule 46A of the Rules. The Ld.CIT(A) also in order to grant an opportunity to the AO had directed the AO to give a remand report on the admissibility of the additional evidences but unfortunately the AO had not sent any reports and therefore the Ld.CIT(A) having no other remedy, had verified the said documents produced by the assessee and satisfied himself that the cash deposited into their bank accounts are nothing but the loan amounts repaid by the members which were in turn deposited with the banks and therefore arrived a conclusion that the said deposits are not unexplained money u/s. 69A of the Act.

7. The revenue mainly relied on the fact that the Ld.CIT(A) ought not to have accepted the additional evidences without giving sufficient opportunity to the AO. As already stated, in the Ld.CIT(A) order in paragraph 5.1.1, the Ld.CIT(A) had observed that the submissions of the appellant were sent to the AO on 09/07/2024 for remand report and comment on admissibility of additional evidence under Rule 46A of the Rules. The Ld.CIT(A) further observed that the AO has not made any comment on admissibility of additional evidence till date. When the Ld.CIT(A) had followed the correct procedure by requesting the AO to send a remand report in order to give the comments on the additional evidences, the AO had not utilised the opportunity and therefore the submissions made by the revenue that the AO was not granted sufficient opportunity before admitting the additional evidence under Rule 46A will not succeed. Further, the Ld.CIT(A) had considered the submissions as well as the documents which shows that the cash deposits are nothing but the repayment of loan amounts by the members and therefore 69A would not attract in the facts and circumstances of the case.

8. The revenue had not pointed out any other factual mistakes in the Ld.CIT(A) order except by saying that the AO was not granted a reasonable

opportunity before admitting the additional evidence which in our view is not correct for the observations made by the Ld.CIT(A) in para 5.1.1. The Ld.CIT(A) also considered the submissions of the assessee that all the details were produced before the AO which are all in the local languages and thereafter only the Ld.CIT(A) had sought for the remand report and thereafter considered the said documents and decided the issue on merits in favour of the assessee. The Ld.CIT(A) in para 5.2.5 had extracted the documents which are all filed during the appellate proceedings and the finding in paragraph 5.2.6 which are reproduced below for the sake of convenience.

“5.2.5 Further, the appellant has submitted the copies of relevant documents/evidences during the appellate proceedings which are as under:

- a) Copies of financial statements for the year ending 31 March 2019.*
- b) Bank Statement from KCDCC Bank Ltd.. Kolar Bangarpet from 1st April 2018 to 31st March 2019.*
- c) Copies of Cash book for the period from 02.04.2018 to 20.04_2018,*
- d) Extract of Cash deposit details from 01.04.2018 - 31.03.2019*
- e) Copies of Loan statements received from KCDCC Bank Ltd. Kolar Bangarpet*
- f) List of members during the year 2018-2019*

5.2.6 The submission of the appellant has been perused. The appellant has submitted copies of financial statements, Extractor cash deposits, Bank statements, Details of cash book, Copies of loan statement and list of members during the appellate proceedings. From the details submitted by the appellant, it is apparent that the cash deposited in the bank were from loan repayments received from member farmers and sale revenues from kerosene and provision items sold to members.

Therefore, it is held that in the instant case the appellant has successfully explained about the nature and source of the cash deposits in it's bank account.

Accordingly, the addition of Rs.2,60.13,510/- ids 69A is hereby deleted.”

9. In view of the above said findings given by the Ld.CIT(A), the grounds raised by the revenue is not sustainable and therefore we dismiss the appeal filed by the revenue.

10. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 24th March, 2025.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 24th March, 2025.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore