

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No. 6542/Mum/2024
(Assessment Year 2017-18)**

Mohammed Saquib Abdul Aziz Sopariwala, Office No.8, First Floor Wing C, Greenstone Merchant MRA RD – 400 001 PAN: ANAPM7234M	vs	Income Tax Officer, Ward 20(2)(1), Piramal Chamber, Dr SS Rao Marg, Parel, 400012
APPELLANT		RESPONDENT

Assessee by : Mr. Laxman Suthar
Respondent by : Shri R.R. Makwana, Addl. CIT

Date of hearing : 26/03/2025
Date of pronouncement : 28/03/2025

ORDER

Per Anikesh Banerjee (JM):

Instant appeal by the assessee was filed against the order of the National Faceless Appeal Centre, Delhi [for brevity the Ld. CIT(A)], passed under section 250 of the Income-tax Act, 1961(in short, 'the Act'), date of order 14-10-2024 for A.Y. 2017-18.The impugned order was emanated from the order of the Assessment Unit, Income-tax Department (for brevity the Ld. "AO"), passed under section 147 read with section 144B of the Act, date of order 18/05/2023.

2. A search and seizure operation under Section 132 of the Act, 1961, was conducted in the case of Renuka Mata Multi-State Urban Co-operative Credit Society Ltd. (hereinafter referred to as 'the society') on 26.05.2017. During the course of the search, it was discovered that substantial sums of money had been deposited in the bank account maintained by the assessee with the society.

During the assessment proceedings, the society failed to satisfactorily explain the source of these deposits. It was observed that the assessee had deposited a total sum of Rs. 6,40,12,433/- in the bank account maintained with the society. However, despite being afforded the opportunity, the society was unable to substantiate the source of these deposits. The cash deposits were found to have been made at various branches of the society, including by customers of the society and other individuals. Subsequently, a notice under Section 148A(b) of the Act was issued to the assessee. However, the assessee failed to respond to the said notice. Consequently, the assessment proceedings were initiated, and the assessment was ultimately completed ex parte under Section 147 read with Section 144B of the Act. The assessee had originally filed a return of income under Section 139(1), declaring a turnover of Rs. 18,40,704/-. However, in response to the notice issued under Section 148, the assessee did not file any return. The Ld. AO proceeded to treat the entire cash deposit of Rs. 6,40,12,433/- as the assessee's turnover. After deducting the turnover already declared by the assessee in its return of income amount to Rs. 18,40,704/-, the Ld. AO applied a presumptive profit rate of 8% on the remaining amount of Rs. 6,21,71,729/-, resulting in an addition of Rs. 49,73,738/- to the total income of the assessee.

Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A). While the Ld. CIT(A) afforded an opportunity of hearing to the assessee,

the appeal was ultimately disposed of ex parte, as the assessee failed to comply with the notices issued by the appellate authority. Dissatisfied with the order of the Ld. CIT(A), the assessee has preferred the present appeal before us.

3. The Ld. AR contended that the assessee was suffering from a lung infection, which prevented compliance with the notices issued by the Ld. CIT(A). In light of these circumstances, the Ld. AR prayed for a remand of the matter to the file of the Ld. CIT(A) to provide the assessee with a fresh opportunity to present its case de novo.

4. The Ld. DR argued and relied on the order of the Ld. CIT(A). The relevant paragraphs 5.3.1 to 5.3.2 are reproduced as below:-

“5.3.1. The appellant failed to comply with any of the notices issued during the appellate proceedings. The appellant failed to substantiate the source of funds amounting to Rs.6.40,12,433/- credited in the account maintained with M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. during the year under consideration. He has failed to provide any trail of the same. No documentary evidences in this regard had been submitted by the assessee neither during the assessment nor during the appellate proceedings. Working of the Society has been dubious as established during the Search operation. Appellant has failed to explain whether he was a member of the Society. Withdrawals from the account with the Society were never of same amount as deposits. No audit report has been furnished by the assessee.

5.3.2 In view of the above facts and circumstance, the amount of Rs. 62171729/- (64012433-1840704) was treated as income of assessee as undisclosed income for AY 2017-18 and addition of Rs.49,73,738/- was made @ 8% of Rs.62171729/- by the AO. On the facts and circumstances of the case I therefore find no infirmity with the assessment order of the AO in making addition of Rs.49,73,738/-. Accordingly, the ground of appeal of the appellant is dismissed.

The other grounds of appeal are consequential and hence do not require any separate adjudication.”

5. We have heard the rival submissions and perused the documents available on record. It is observed that the assessee had deposited cash amounting to Rs.6,40,12,433/- in different bank accounts of Renuka Mata Multi-State Urban Co-operative Credit Society Ltd. However, during the course of assessment and appellate proceedings, the assessee failed to comply with the notices issued by the revenue authorities. Upon examination, we find that the assessee was denied a reasonable opportunity to present its case. Consequently, an addition was confirmed at 8% of the balance cash deposit amounting to Rs. 6,21,71,729/-, resulting in an unexplained income of Rs. 49,73,738/-.

In view of the above, we remit the matter to the file of the Ld. CIT(A) for fresh adjudication de novo. We refrain from expressing any opinion on the merits of the case, as doing so may prejudice the proceedings in the remanded appeal.

It is imperative that the assessee be afforded a reasonable opportunity of hearing during the reconsideration of the appeal. Any evidence submitted by the assessee shall be duly considered by the Ld. AO in accordance with the law. At the same time, the assessee is expected to act diligently and cooperate with the proceedings to facilitate the expeditious disposal of the appeal.

6. In the result, the appeal of the assessee bearing **ITA 6542/Mum/2024** is allowed for statistical purpose.

Order pronounced in the open court on this 28th day of March, 2025.

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 28/03/2025

Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, Mumbai