

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 702/Coch/2024

Assessment Year : 2018-19

The Income Tax Officer, Ward - 2 (1), Thiruvananthapuram. Kerala.	Vs.	M/s. TVM District Mercantile Co-operative Society, TC-24/1082-1, Women & Child Hospital Lane, Thycaud P.O, Thiruvananthapuram - 695 014, Kerala. PAN: AAFAT0943F
APPELLANT		RESPONDENT

Assessee by	:	Shri Padmanathan K.V., Advocate
Revenue by	:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing	:	03-02-2025
Date of Pronouncement	:	28-04-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the Revenue challenging the order of the NFAC, Delhi dated 21/06/2024 in respect of the A.Y. 2018-19 and raised the following grounds:

“1. The learned CIT (Appeals) erred in appreciating the facts and circumstances of the case with regard to the

addition made to the tune of Rs13,21,86,366 u/s69A of the Income tax Act, 1961.

2. The learned CIT (Appeals) erred in accepting the contentions of the assessee that all requisite details were furnished before the AO when the details provided does not contain any Unique ID no. like PAN, Customer ID etc. of the depositor which proves the identity/genuineness of the depositor/transaction.

3. The Ld. CIT (A) failed to observe that the response was filed by the assessee towards the fag end of the assessment proceedings and that too in an unverifiable format.

4. The CIT(A) erred in appreciating the fact that the condition as laid down in section 69A of the Act, of offering an explanation on the source of the money to the satisfaction of the assessing officer, has not been fulfilled by the assessee.

5. The learned CIT(A) erred in concluding that the AO should have rejected books of account, when the addition of 13.82 crores was not based on any estimation, but on details provided by the assessee as available in the books of accounts.

6. The Ld.CIT (A) ought to have noted that despite opportunity been given, no specific objections were filed in response to the final show cause notice except for quoting of the SC judgment in the case in the Mavilayi SCB, which is not applicable to addition made u/s69A.”

2. The assessee is a co-operative society registered under the provisions of the Kerala Co-operative Societies Act. The assessee provides credit facilities to its members. The assessee also received deposits from its members by way of fixed deposits, savings and daily deposit schemes. The assessee recorded all the loan transactions and the deposits in their books of accounts. The assessee maintained bank accounts in which the deposit amount and the loan repayment amounts and the interest were deposited. The AO had treated the said deposits as unexplained income u/s. 69A of the Act on the wrong notion that the deposits were not accounted in the assessee's books of accounts. The AO before coming to the above conclusion had not verified the books of accounts in which the total deposits

of Rs. 19,75,57,806/- were duly recorded which includes the alleged unexplained income of Rs. 13,21,86,366/-. The assessee at the time of assessment had submitted the details of the members from whom the amounts were collected on each day to prove the source of daily collections received and deposited into the bank accounts. The AO without conducting any enquiry, had treated the said deposits as unexplained income u/s. 69A of the Act. The assessee had filed the details to the various notices issued on 16/10/2023, 03/01/2024, 12/01/2024 and 04/02/2024 but the AO without considering the said details, had confirmed the addition made u/s. 69A of the Act. The assessee challenged the said order before the Ld.CIT(A) and contended that the deposits made into their bank account was properly explained on various dates and therefore prayed to allow the appeal. The Ld.CIT(A) had dealt with the issue in detail and after considering the details furnished by the assessee, had come to the conclusion that the order of the AO is not correct. As against the said order of the Ld.CIT(A), the revenue had filed the present appeal before this Tribunal.

3. At the time of hearing, the Ld.AR submitted that on various dates, the assessee had furnished all the details of the collections made by the assessee from the members which was later on deposited into their bank accounts but the AO without considering the said details had treated the said deposits as unexplained income u/s. 69A of the Act which is not correct. The Ld.AR further submitted that the AO had not dealt with the explanations offered by the assessee before making the assessment and therefore the order of the AO is not correct and the Ld.CIT(A) had appreciated the said facts and allowed the appeal which is in order. The Ld.AR also took us through the findings of the Ld.CIT(A) and submitted that the finding is not a perverse one and therefore the same need not be disturbed.

4. The Ld.DR relied on the order of the lower authorities and relied on the grounds of appeal filed and prayed to allow the appeal filed by the revenue.

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

6. We have seen from the assessment order, the assessing officer was under the wrong impression that the assessee had not given any valid explanations about the nature and source of cash credits amounting to Rs. 13,21,86,366/-. We have also perused the order of the Ld.CIT(A) in which the Ld.CIT(A) had considered the issue in detail, which reads as follows:

“3.3. (i) In the facts of the case, it is found that the assessee is a Co-operative Society, registered as an agricultural co-operative society, engaged in the business of providing credit facilities to the members of the Society. The assessee in the statements submitted with the appeal, has stated that during the assessment stage, it had submitted all the details in relation to the issue raised by the AO. Particularly, it stated that, in response to notice u/s. 142(1), dated 09/06/2024, it had submitted the detailed list of members with the names and addresses of such members, their account nos., amounts collected on each day, from 01.04.2017 to 31.03.2018, in a statement contained in 767 pages, to prove the sources of the daily collections, received by the Society, by cash or other modes and subsequent deposits of the same, in its bank accounts, after accounting the daily collections in its books of accounts. In a summarized form, it stated that the opening balance in the bank accounts, as on 01.04.2017, was Rs. 51,31,585/-. The amounts collected from the members and subsequently deposited to its bank accounts were Rs. 19,75,57,806/-. There have been subsequent withdrawals of Rs. 19,39,12,111/-, leaving the closing balance, as on 31.03.2018 for Rs. 87,77,279/-. It further stated, during the FY 201718, relevant to AY 2018-19, the appellant Society disbursed Rs. 11,07,02,909/-, as Short Term and Medium Term agricultural loans to its members. It also received deposits of Rs. 9,18,03,110/- from its members towards fixed deposits, savings deposits and other daily deposit scheme. All these activities are recorded in the books of accounts, maintained by it and duly disclosed in the balance sheet as on 31.03.2018, filed with its Return of Income.

(ii) I find that the AO has not discussed these issues and the explanations forwarded by the assessee Society anywhere in the assessment order. The Society claimed that the said sum of cash deposited, in bank accounts, of

Rs. 13,21,86,366/- is part of the total deposits, made with the banks for Rs. 19,75,57,806/-. I find that the AO has copied from the submissions of the Society and made a part out of the said submission to the extend of the summary of cash deposits from 01.04.2017 to 31.03.2018, at Annexure 2 of page no. 5 of the assessment order. It, therefore, is clearly evident that the claim of the assessee that, it had submitted various details before the AO is correct. It is unfortunate that the AO has not given any credence to the submission of the assessee and went on to find the entire deposit of cash in the bank accounts, as unexplained money in the hands of the assessee. It is also intriguing that the AO had not rejected the books of accounts of the assessee Society or did not make any comment on the final accounts of the assessee, as was submitted before him, through the P/L account and the balance sheet of the Society, for the year. Therefore. I do not find any merit in the addition by the AO in the assessment order and allow complete relief to the assessee, by directing the AO to immediately delete the addition made for Rs. 13,21,86,366/-, in the assessment order.

(iii) Coming to the next issue of allowance of deduction u/s. 80P(2)(a)(i). The assessee is a registered primary agricultural co-operative credit society and therefore, its business of providing credit facility to its members is eligible to get deduction u/s. 80P(2)(a)(i). Without assigning any reason, the AO has denied such benefit, which is unfit to be sustained. Therefore, I direct the AO to allow the credit u/s. 80P(2)(a)(i) to the Society in the Computation Sheet of total income, made by it, to the declared profit of the Society for Rs. 1,17,82,828/-.

4. As a result, the appeal of the assessee Society is allowed.”

7. As seen from the said finding, the Ld.CIT(A) had considered the fact that on 09/06/2024, the assessee had submitted the detailed list of members with the names and address of such persons, their account numbers, amounts collected on each day from 01/04/2017 to 31/03/2018 by way of a statement which contains 767 pages to prove the source of the collections and deposits. The Ld.CIT(A) also considered the balance sheet in which all the details of the amounts deposited in the bank accounts were duly recorded which was also filed along with the return of income. After considering the said details furnished by the assessee, the Ld.CIT(A) had

come to the conclusion that the assessee had discharged their burden by showing the source for the deposits made into their bank account but unfortunately the said details were not at all considered by the AO. The assessing officer being a quasi judicial authority ought to have considered all the details furnished by the assessee at the time of making the assessment but unfortunately in this case, nothing was considered by the AO. In such circumstances, the order of the AO without considering the details furnished by the assessee is an illegal one and requires reconsideration by the AO. But the Ld.CIT(A) instead of remitting the issue to the AO, had allowed the same.

8. Admittedly the AO had not verified the details and therefore the Ld.CIT(A) could have remitted the issue to the AO for reconsideration. Therefore we are setting aside the order of the Ld.CIT(A) and the AO and remit the issue to the file of the AO with a direction to consider the issue afresh, based on the various details furnished by the assessee, and thereafter pass a well considered order, after hearing the assessee.

9. In the result, the appeal filed by the revenue is partly allowed for statistical purposes.

Order pronounced in the open court on 28th April, 2025.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Cochin,
Dated, the 28th April, 2025.
/MS /

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

By order

Assistant Registrar,
ITAT, Cochin