

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.74/Ind/2025 (AY: 2017-18)

Shubh Shakh Sahakari Society Maryadit, 54, Subhash Complex, Opp. MPEB, Jaora Ratlam (PAN: AAJAS6604C)	<u>बनाम/</u> <u>Vs.</u>	Income Tax Officer Ward-2, Ratlam
(Appellant)		(Revenue)
Assessee by	Shri Parag Jain, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	23.07.2025	
Date of Pronouncement	28.07.2025	

आदेश / ORDER

Per Paresh M Joshi, J.M:

This is an appeal filed by the assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the “**Act**” for sake of **breivty**) before this Tribunal. The assessee is aggrieved by the order bearing Number ITBA/APL/S/250/2024-25/1070446492(1) dated **19.11.2024** passed by the Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the “**Impugned order**”. The relevant Assessment Year is 2017-18

and the corresponding previous year period is from 01.04.2016 to 31.03.2017.

2. FACTUAL MATRIX

2.1 That as and by way of an assessment order bearing No. ITBA/AST/S/143(3)/2019-20/1019233097(1) dated 22.10.2019 total income of the assessee was computed and assessed at **Rs.5,56,460/- u/s 144 of the Act**. The assessee had e-filed its return of income declaring total income at **Rs.24,960/-** on 22.12.2017. The assessee is a cooperative society and is engaged in the banking business with its members. The aforesaid order is hereinafter referred to as **"impugned assessment order"**.

2.2 That the assessee being aggrieved by the aforesaid **"impugned assessment order"** prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the **"impugned order"** has dismissed the appeal of the assessee on grounds stated therein. The core ground and reason for the dismissal of first appeal under the Act were as follows:-

"4.10 In this proceeding, the appellant was provided with sufficient opportunities to substantiate the contentions raised in its ground of appeal. However, despite lapse of considerable amount of time and even after number of notices issued, the appellant has failed to furnish any reply/explanation/documents. The onus is on the appellant to establish the nature and source of such cash deposited in its bank account which

was required to be discharged by furnishing the details and documentary evidences. However, the said onus is not discharged by the appellant neither during the course of assessment proceedings nor in appellate proceedings. Considering the facts and circumstances of the case and given the fact that no reply/explanation has been furnished by the appellant, the undersigned is of the opinion that the order of the Ld. AO does not require any interference. Therefore, the grounds of appeal are dismissed"

2.3 That the assessee being aggrieved by the "impugned order" has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal in Form No.36 against the "impugned order" which are as under:-

- *" The Assessee accepts deposits and gives loan only to its members. In the previous correspondences provided by the assessee it is accepted that total cash deposits were made amounting to Rs. 27,32,620/- during demonetization period. Out of the given sum Rs. 5,31,500/- were deposited in bank account on 11.11.2016 in old discontinued currency. The Assessee had provided detailed bank statements and details of loans and statements were recorded on 24.05.2017.*
- *The Representative being the accountant of the Assessee (AOP) at that time stated to provided details of those members of society who deposited cash in old currency during the Demonetization Period but due to shocking and sudden demise of the accountant no information could be sought by the society during that period which being the reason that the society was unable to provide the requisite details.*
- *The Assessee Society only acted as an intermediary for depositing the old currency notes of the members in the bank and the same were not unexplained source of money earned by the society and even the same were not deposited by a single individual in the Bank Account of the society. It was a collection of funds from a number of members who were unable to deposit the funds during*

demonetization period and the society provided just a facility to park deposit of members in the bank account. All the necessary documentary evidences had been provided along with this appeal for your perusal.

- *Considering the same it can be observed that the income earned by the Assessee (AOP) is from genuine sources and no funds are obtained from illegal sources. Thus Sections 115BBE and 69A regarding undisclosed income shall not be imposed on the Assessee."*

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 23.07.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia contended that the "**impugned order**" is an **ex-parte one** and that the same should be set aside. It was contended that there was a death of a **responsible person** who was **working** for the **assessee society**. In brief he contended that the "**impugned order**" should be set aside being violative of the principles of natural justice and that there is no effective disposal of the 1st appeal on merits. Per contra the Ld. DR fairly submitted that both the orders of the lower authorities below are not on merits and are ex-parte in nature. At the fag end of the hearing there was **near unanimity** between the Ld. AR for the assessee and Ld. DR for the revenue that the "**impugned**

order” should be set aside and matter be remitted back to Ld. A.O.

4. Observations, findings & conclusions.

4.1 We now have to decide the legality, validity and the propriety of the **“Impugned Order”** basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and after hearing and upon examining the contentions are of the considered opinion that the **“impugned order”** has simply dismissed the 1st appeal due to the fact that assessee has remained non compliant despite several opportunities to the assessee. However we observe that though many opportunities were given to the assessee to submit reply/submission etc. however in one of the reply only in the response to notice dated 14.12.2023, the assessee vide their reply dated 11.02.2024 had conveyed to the Ld. CIT(A) about **death** of the **Accountant of assessee society**. Be that as it may we are of the considered view that both the orders of the lower authorities i.e. Ld. A.O & Ld. CIT(A) are not on merits and we

observe and notice that neither at the original stage of the assessment nor even at the 1st appeal stage there is any meaningful discussion and debate on aspect of real computation of income of the assessee society. This tribunal desires both at the original stage of the assessment as well as at the 1st appeal stage the meritorious disposal so that the real income exigible to tax is computed and assessed. The responsibility is equally of the assessee to participate in the proceedings and to cooperate with the department. While it is **true** that **Accountant** of the assessee society who was a responsible officer had died but nevertheless in future some other competent officer who is well acquainted with the affairs of the assessee society should be deployed so that on merits revenue can take appropriate decision according to law.

4.4 In the premises drawn up by us as aforesaid, we set aside the "**impugned order**" as and by way of remand back to the file of Ld. A.O on *denovo basis*.

5.

Order

5.1 In view of aforesaid "**impugned order**" is set aside as and by way of remand to Ld. A.O on *denovo basis*.

5.2 In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 28.07.2025.

Sd/-

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 28/07/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore