

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND**  
**SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1141/Chny/2025  
Assessment Years: 2017-18

Asirvad Micro Finance Limited,  
No.9 Ninth Floor, Club House Road,  
Anna Salai,  
Chennai- 600 002.  
[PAN: AAGCA5275J]

Deputy Commissioner of Income  
Tax,  
Corporate Circle-1(1),  
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Shri P.R.Prasanna Varma, F.C.A &  
Mr.Arjun Rajagopalan, C.A,

प्रत्यर्थी की ओर से /Revenue by

: Mr.Bipin C.N, CIT

सुनवाई की तारीख/Date of Hearing

: 06.08.2025

घोषणा की तारीख /Date of Pronouncement

: 25.08.2025

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M. :**

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1072914131(1) dated 04.02.2025 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2017-18. The reference to the word "Act" in this order hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 The twin issues that has been noted from the grounds of appeal of the appellant assessee is regarding an addition of Rs.28,99,56,988/- made by the Ld.AO on account of inadmissible finance costs on securitization transactions and addition of Rs.1,61,82,000/- on account of unexplained cash deposits made in specified bank notes(SBN) u/s 69A r.w.s. 115BBE as well as their confirmation by the Ld.CIT(A). Brief factual matrix of the case as evident from the order of lower authorities is that the appellant company is Non-Banking Finance Company (NBFC) which is engaged in the business of providing micro finance in rural areas. The financial activities of the company are governed by regulations of the Reserve Bank of India. Return of Income admitting total income of Rs.103,63,98,160/- along with book profit under section 115B of Rs. 51,12,21,007/- was filed on 31.10.2017. The Ld.AO noted that the assessee had through its securitization activity earned interest on loan (Microfinance) of Rs.334,37,28,960/-. From the impugned amount the assessee was found to have reduced an amount of Rs.28,99,56,987/- so as to offer interest on microfinance loans amounting to Rs.305,37,71,972/- (Rs.334,37,28,960 - Rs.28,99,56,987). Before the Ld.AO, assessee had argued that it had transferred a part of its loan receivables to five entities who in the nature of Special Purpose Vehicles(SPV). Details of said five entities have been given in para 4.4 of the order of the Ld.AO. The assessee had accordingly submitted that

the amount of Rs.28,99,56,987/- pertained to interest income of the said five entities and hence was reduced from its overall interest income earned during the year. The Ld.AO concluded that the assessee has attempted a clever decoy to evade real transactions and suppress its income in the guise of finance costs. The Ld.AO accordingly proceeded to make addition of the amount of Rs.28,99,56,987/-. The Ld.AO further noted that the assessee had deposited, during the demonetization period an amount of Rs.1,61,82,000/- on account of cash deposits made in specified bank notes (SBN) in its bank account. The Ld.AO rejected the submissions of the assessee that the cash deposits had a direct connection with the loan repayment from poor microfinance borrowers. The assessee had submitted that in respect of its some cash deposits of SBN's , it had paid Rs 24 lacs as tax and Rs.6 lakhs as penalty under the Pradhan Mantri Garib Kalyan Yojana (PMGKY) Scheme so as to buy peace with the department. The Ld.AO concluded that assessee's opting for PMGKY was an acceptance of its guilt of violation of law. It was held by the Ld.AO that by virtue of government order in SO No.3407 dated 08.11.2016 the SBNs had ceased to be legal tender and therefore could not have been transacted. Aggrieved by the order, the assessee preferred an appeal before the Ld. CIT(A) who concurred with the findings of the Ld.AO and sustained the additions.

3.0 As regards the first issue concerning addition of Rs. 28,99,56,988/- the Ld.Counsel for the assessee has vehemently argued that the Ld.AO has totally misunderstood its business module and the facts of the case for the year under consideration. The Ld.Counsel for the assessee submitted that it is operating under close supervision and control of the rules and regulations of the RBI. It has been argued that all the financial activities, transactions etc are under constant watch of the Apex banking regulator. It has been argued that the reduction of the interest amount of Rs.28 lakhs by the assessee has been done in full compliance to the regulations of the RBI. The Ld. Counsel submitted that in its line of business activity of extending microfinance in the rural sector, many times the loans become sticky or bad or what is known in local parlance as "illiquid assets". RBI rules mandate that the assessee is entitled to transfer all such assets under the securitization scheme. It was submitted that in accordance to the said activity authorized the RBI, the assessee had transferred / assigned part of its unrealized loans or illiquid assets to the five parties which have been indicated by the Ld.AO on page 4 and 5 of his order. An agreement was signed between the appellant and the said five parties towards transfer / assignment of the impugned unrealized loans or illiquid assets. The five parties were in the nature of special purpose vehicle or SPV. It was submitted that in accordance to the RBI mandate another agreement was signed between

the assessee and the SPVs whereby the assessee was authorized to collect interest from the delinquent defaulters for and on behalf of the said five SPVs. The SPVs were required to pay the assessee finance charges for doing the interest collection tasks. Thus, the appellant had executed two agreements with SPVs, one for the transfer / assignment of illiquid assets and another for collection of interest from delinquent defaulter. The appellant assessee submitted that the impugned illiquid assets were reduced, in terms of clause – 3.1 of the assignment agreement, from the overall volumes of loans forwarded by the appellant given the fact that they were transferred to the SPVs. However, since by virtue of the agreement for collection of interest, for and on behalf of SPVs, the appellant showed these into its financials for monitoring purpose. Thus, since the appellant acted as a mere service provider to the five SPVs, the interest income at the end of each month qua such illiquid assets, was reduced from its overall income under the name and style of 'finance costs on securitization transactions'. All such details were clearly exhibited in the note 16 of the Annual Report. The appellant submitted that during the year under consideration it has earned total interest of Rs. 334,37,28,960/- Crores on all the loans out of which amount of Rs.28,99,56,987/- pertaining to interest income of said five SPVs were reduced to offer interest income of Rs.305,37,71,972/-.

The Ld.Counsel for the assessee has thus argued that there is no

suppression of income on its part neither has there been any attempt to avoid any genuine incidence of taxation. In support of its contentions, the Ld.Counsel for the assessee has taken us through a voluminous paper book, placed on records, documenting each and every part of its transactions agreements and authorizations from the RBI, five SPVs extracts of its audited financial statements. It has been argued that the Ld.Assessing Officer and the Ld.CIT(A) has misread the entire transactions and consequently drawn erroneous conclusions.

4.0 Per contra, the Ld.DR vehemently argued in favour of order of lower authorities.

5.0 We have heard rival submissions in the light of material available on records. Upon considering the arguments of the Ld.Counsel for the assessee in the light of voluminous paper book, we are convinced about the truthfulness of transactions undertaken by the appellant assessee. It is abundantly clear that the lower authorities have misread the issue of 'finance costs on securitization transactions' amounting to Rs.28,99,56,987/- and concluded about assessee indulging in sham transactions. At this stage, we deem it necessary to extract the findings of Ld.CIT(A) on this issue as under:-

*"....Accordingly, as above AO has given categorical findings to hold the same as not allowable as attributable to claim of securitized finance cost on securitized assets which are sold to SPVs as outright sale as*

*contended by the appellant as per the business practice as applicable to appellant business activities. Accordingly after considering the various clauses of agreement as discussed as above at para (4.7). AO has observed that, considering all the above terminologies as noticeable from various clauses as agreed by both the appellant and assignee/SPV, it is proved beyond doubt that once the seller, i.e. the appellant sold the receivables to the assignee i.e. the issuers/SPVs (above 5 securitization) they are legal and beneficial owner of the said receivables and the appellant right stands extinguished once the sales is over and accordingly, the appellant claim of sold securitized assets as eligible/mandated to pay finance cost to SPVs on such sold out securitized assets is neither reasonable nor justifiable is the broad conclusion of the AO as reasoned and discussed in detail in the assessment order covering the issue of securitization of assets and its consequent entries in the books of accounts of the appellant. As per these findings, AO further concluded that appellant method of adjusting finance cost on securitized assets in the guise of securitization loan is not acceptable as no such loan actually is found existing in true sense or reconciliable consequent to its sale to SPVs and such reflection of same in the books of accounts of the appellant is only to the extent of providing services to the SPVs for collection of these loans and interest as per the agreement clauses entered with SPVs and thereby AO concluded the same as not allowable as netted off by the appellant to this extent against the revenue from operations. Contrary to these findings of AO, appellant is contending that the finance cost as attributable to securitized assets is to be netted off as the same is appearing in gross revenue so as to neutralize the same and thereby appellant contends that no such claim is indeed made as attributable to securitized assets as observed by AO and accordingly requested to consider appellant claim as qualified in the*

notes referred by AO in the assessment order. In this analogy, appellant further contends that when a securitization transaction is entered, the difference between the amount of interest collected from the underlying loan and the interest paid to the SPV (on PTC) is treated as interest spread, which is recognized as income in the books of the originator over the period of the underlying loan, based on the collection thereof. Therefore, in simple terms, the net impact of the above recognition principle is that the interest income on loan less related interest expenditure (on PTC) is recognized as income is the contention of the appellant. Accordingly appellant further contends that, though the underlying assets have been transferred under a securitization agreement, since under the agreed terms, the appellant continues to be responsible for the collection and passing on the proceeds from securitized assets to the Issuer SPV, as per normal practice, the individual loan accounts are not removed from the appellants loan management system ("LMS"). Thereby the appellant claims that, the interest on the entire loan portfolio, including securitized assets, is recognized in the LMS; thereafter the component of interest on PTC is captured separately, as a result of which the net interest income recognized would be only the interest spread on securitized assets. In this analogy appellant claims that entire interest spread as applicable on securitized assets for Rs.15.87 crores is admitted as per the due procedure and accordingly contends that such disallowance as made by AO as attributable to finance cost expenses as netted off against gross revenue is not acceptable and thereby requested to delete the same. Further appellant is placing reliance on the RBI guidelines as applicable to appellant business activities having followed as relatable to securitized assets and thereby requested such findings of AO warranting for disallowance on account of finance cost of securitized assets as not

*maintainable is the plea of the appellant. However appellant could not adduce any such verifiable evidences/justifications as reconciliable with the provisions of I.T.Act to adduce allowability of finance costs as attributable to securitized assets consequent to its sale to SPVs as reasoned and observed by the AO in the assessment order. Appellant is only contending that the difference between the amount of interest collected from the underlying loan by the appellant and the interest paid to SPVs on account of securitization of loans is only admitted and claimed the same as only taxable as per the provisions of I.T.Act and could not justify allowability of such finance cost as paid or payable to SPVs even after its sale to SPVs as per law. Further appellant is only associated with these securitized loans for necessary extending of services to SPVs for collection and passing of proceeds out of these securitized assets to SPVs as per the agreed terms of agreement and thereby apparently there is no justification to net off such finance cost as incurred against these securitized assets consequent to its sale to SPVs as reasoned and observed by AO in the assessment order and in view of the same appellant mere contentions to hold that the same as allowable as netted off by the appellant against the gross revenue is neither reasonable nor justifiable, when the same is not substantiated with such supporting provisions of I.T.Act as reconciliable with the facts of case and workings as attributable to such securitized assets on its sale to SPVs as per law. Considering all these discrepancies as reconciled and observed by AO in the assessment order and keeping in view the appellant mere claims to hold the same as allowable though the same is sold as securitized assets to SPVs as per the due accounting norms of RBI guidelines as contended without reconciling the same as per the provisions of I.T.Act is neither reasonable nor justifiable to hold to the view of appellant as there exists no infirmity in the order of AO in*

*disallowing such finance cost as discussed by AO in the assessment order.*

*Accordingly appellant various contentions/GOA as advanced against this issue of addition on account of securitized assets finance cost is to be treated as not maintainable and accordingly this GOA of appellant is dismissed....”*

6.0 When the illiquid assets were transferred / assigned to the five SPVs, the interest income earned therefrom rightly belong to the said five SPVs and hence the assessee was well within its contractual and moral duties to remove this income from its taxable income. In fact, by taxing the same in assessee's case, a case of double taxation is clearly made out. Accordingly, we set aside the order of the lower authorities and direct the Ld.AO to delete the impugned addition of Rs.28,99,56,987/-. The grounds of appeal No.1 to 3 raised on the issue of addition on finance costs securitization are thus stands allowed.

7.0 The next issue raised by the assessee through ground no.4 is regarding addition of Rs.1,61,82,000/- u/s 69A r.w.s. 115BBE on account of unexplained cash deposits made in the bank account by way of SBNs during the demonetization period. As evident from page 25 / 26 of the assessment order the Ld.AO noted from note no.44 of assessee's financials that an amount of Rs.1.61 Crores app. as cash receipts from

non-permitted transactions was deposited in the bank account. The Ld.AO took cognizance of the fact that the assessee had himself also declared amount of Rs.30 lakhs (including penalty) in the PMGKY scheme which alluded towards acceptance of guilt in indulgence in unauthorized transactions. The Ld.AO concluded that the SBNs were declared as illegal tender upon declaration of demonetization w.e.f. 08.11.2016 and therefore any transactions in the same was illegal and unauthorized. The Ld.CIT(A) concurred with the findings of the Ld.AO in this regard and confirmed the addition. The Ld.Counsel for the assessee submitted that it is engaged in the activity of giving microfinance in the rural areas and its clients are largely women folk. It was submitted that the amount of loans was returned by them in cash during the demonetization period. The Ld.Counsel argued that the invocation of hypothesis of SBNs loosing their credibility as legal tender is not correct. It was argued that the SBNs lost their relevance as legal tender only by virtue of order dated 31.12.2016 and not prior to that. The Ld.Counsel invited our attention to decision of a Coordinate Bench of this Tribunal in TASMAL as at ITA No.431/Chny/2023 dated 07.10.2024 holding that the SBNs lost their relevance as legal tender only by virtue of order dated 31.12.2016 .

8.0 Per contra, the Ld. DR relied upon the order of lower authorities.

9.0 We have heard rival submissions in the light of material available on records. It is an undisputed fact on record that the assessee had been engaged in the activity of providing microfinance to under privileged women in rural areas who may not be having commensurate access to the banking facility. It is not disputed by the Revenue that the amount was not received from said loan recipients or else that the cash deposits are from unexplained sources. The Revenue has merely rested its addition on the premise that the SBNs had lost their credibility as legal tender w.e.f. 08.11.2016. The argument of the Ld.AO that merely because the appellant has filed a declaration in the PMGKY Scheme would make the impugned cash deposits also as becoming tainted deposits is totally unfounded. The declaration under PMGKY was given by the appellant qua those amounts for which it did not had adequate justification in terms of their source. As regards the issue of legal tender of SBNs, we have noted that the issue has been extensively dealt by an Hon'ble Coordinate Bench of this Tribunal in the case of TASMACH vide ITA No.431/Chny/2023 dated 07.10.2024. Relevant part of the order is reproduced hereunder: -

*“.....8.3 In view of the above provisions, as in the present case, once the receipt of SBNs by assessee is not illegal or barred by any legal provisions the receipt of SBNs cannot be put on a different footing for the purpose of Section 68 or Section 69 of the Act from other currency as the source of SBNs are same as the source of other currency. The SBNs*

*though are not legal tender, is of no consequence for determination of source, because the SBNs can be encashed for the face value with the bank without any question being raised. We further noted from the RBI circulars or CBDT circulars that neither the RBI circulars nor any CBDT circulars including any instructions on demonetization requires any person to disclose the source of SBNs. We noted from the facts of the case placed before us that out of total deposits of Rs.2635.35 Crores were in cash for the month of November 2016, which has been accepted as the value of liquor sold for a sum of Rs.2582.56 Crores, hence it can be easily presumed, unless disproved by Revenue, that the balance sum of Rs.52.79 Crores is out of sale of liquor. There is no basis or evidences or examination of any person for reaching a conclusion that this sum of Rs.52.79 Crores received by assessee has been substituted in demonetized currency. We noted from the evidences placed before us that the observation of the AO that branch wise details of deposits made in SBNs was not available is not correct for the reason that the complete details of deposits of SBNs account-wise, branch-wise was submitted before the AO as well as before the CIT and also before us....”*

10.0 Accordingly, in respectful compliance to the decision of the Coordinate Bench of this Tribunal in the case of TASMACH as well as facts of the present case discussed hereinabove we hold that the addition made by the Ld.AO is not warranted. We therefore set aside the order of lower authorities and direct the Ld.AO to delete the addition of Rs.1,61,82,000/- under section 69A. The ground no.4 raised by the assessee is therefore allowed.

11.0 In the result, the appeal of the assessee is allowed.

Order pronounced on 25<sup>th</sup> , Aug-2025 at Chennai.

**Sd/-**

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष / vice president

चेन्नई/Chennai, दिनांक/Dated: 25<sup>th</sup> , Aug-2025.

KB/-

**Sd/-**

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF