

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.198/Nag./2025
(Assessment Year : 2019-20)

Sanjivani Mahila Gramin Bigar
Sheti Sahakari Pat Sanstha
Asagaon, Pauni, Bhandara 441 910
PAN – AAVFS6355B

..... Appellant

v/s

Income Tax Officer
Ward-2, Bhandara

..... Respondent

Assessee by : Shri Chandraprakash Bhutada
Revenue by : Shri Surjit Kumar Saha

Date of Hearing – 14/05/2025	Date of Order – 27/05/2025
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ORDER

The captioned appeal by the assessee is emanating from the impugned order dated 12/02/2025, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2019-20.

2. In its appeal, the assessee has raised following grounds:-

"1. The Appellant, Sanjivani Mahila Gramin Bigar Sheti Sahakari Pat Sanstha Maryadit, a cooperative society registered under the Maharashtra State Cooperative Societies Act, 1960, respectfully submits the following grounds challenging the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated February 12, 2025, passed under Section 250 of the Income Tax Act, 1961 (hereinafter "the Act").

2. Erroneous Confirmation of Arbitrary 10% Addition: The CIT(A) erred in law and fact by confirming an addition of Rs. 14,57,208 (10% of cash deposits of Rs. 1,45,72,081) as unexplained money under Section 69A. This addition is arbitrary and lacks evidential support.

Section 69A states: "Where... the assessee offers no explanation about the nature and source of such money... or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money... may be deemed to be the income of the assessee. Here, the explanation was accepted as substantially correct prohibiting deeming provisions absent specific evidence.

CIT v. K.Y. Pilliah & Sons [1967] 63 ITR 411 (SC) - The Supreme Court held that once credible evidence explains cash credits, the AO cannot deem them income without cogent rebuttal.

3. Disregard of Unassailable Evidence of Genuineness: The Appellant provided comprehensive evidence cash books, bank statements, receipt vouchers, and CA verification proving the Rs. 1,45,72,081 as genuine business receipts. The CIT(A) acknowledged this yet upheld a 10% addition without basis.

Section 68 requires the AO to prove credits are unexplained before taxing them: "Where any sum is found credited... and the assessee offers no explanation... or the explanation offered is not satisfactory..." Here, no specific sum was identified as unexplained, barring such addition.

CIT v. P.K. Noorjahan [1999] 237 ITR 570 (SC): The AO cannot reject a satisfactory explanation without positive evidence of falsity.

4. Unjustified Demand for One-to-One Correlation: The CIT(A)'s reliance on a "one-to-one correlation" is legally untenable:

Section 69A does not mandate transaction-level proof beyond reasonable explanation, nor does Section 44AA (maintenance of accounts) impose such a burden on audited entities like the Appellant.

CIT v. Orissa Corporation Pvt. Ltd. [1986] 159 ITR 78 (SC) - The Supreme Court ruled that the AO cannot impose additions absent evidence disproving the assessee's explanation, especially when records align with business operations.

5. Impermissible Addition to Safeguard Revenue The CIT(A)'s justification of the 10% addition to safeguard the interests of revenue" is ultra vires:

Section 4(1) limits taxation to "income": "Income-tax shall be charged... in respect of the total income of the previous year. Notional additions for revenue protection violate this principle.

CIT v. Shoorji Vallabhdas & Co. [1962] 46 ITR 144 (SC) - The Supreme Court emphasized that tax applies only to real income, not hypothetical figures.

Union of India v. Dharmendra Textile Processors [2008] 306 ITR 277 (SC) Arbitrary additions without statutory backing are impermissible.

6. *Prejudice Due to Departmental Inaction: The demand stems from the Department's failure to deactivate PAN AAVFS6355B, despite the Appellant's application on June 26, 2019:*

Section 292B-No assessment shall be invalid merely by reason of any mistake The Department's error cannot prejudice the Appellant.

CIT v. Kelvinator of India Ltd. [2010] 320 ITR 561 (SC) - Assessments must be fair and not penalize assessee for administrative lapses.

7. *Inconsistency in CIT(A)'s Findings: The CIT(A) deleted Rs. 1,69,070 as accounted under PAN AARAS7485B but inconsistently retained 10% of proven deposits:*

Radhasoami Satsang v. CIT [1992] 193 ITR 321 (SC) Consistency in tax treatment is a principle of equity.

8. *The CIT(A) noted the deposits were "mainly collected due to fresh deposits and cash recoveries of loans" aligning with the Appellant's evidence. Yet, a 10% addition was upheld without evidence which is unjustified and unwarranted and without basis.*

Section 69A- Deeming applies only if the explanation is unsatisfactory, not when accepted as substantially correct.

CIT v. K.Y. Pilliah & Sons [1967] 63 ITR 411 (SC) The AO must disprove credible evidence, which was not done here."

3. Though the assessee has raised as many as nine grounds of appeal with interconnected sub-grounds, however, the only issue that I need to adjudicate here relates to the addition of ₹ 14,57,208, i.e., 10% of cash deposits of ₹ 1,45,72,081, as unexplained money under section 69A of the Income Tax Act, 1961 ("*the Act*") and interest income of ₹ 1,69,070.

4. Facts in Brief:- The assessee is a Co-operative Society formed in the year 1998 under Maharashtra State Co-operative Societies Act, 1960, and had filed its return of income on 29/08/2019, disclosing total income at ₹ 1,27,000, under the Permanent Account Number – AARAS7485B. From the information available with the Department's database, it is seen that there

were cash deposits of ₹ 12,00,081, in Central Bank of India and ₹ 1,33,72,000, in the Bhandara District Central Cooperative Bank aggregating to ₹ 1,45,72,081. The assessee also earned interest income from Central Bank of India to the tune of ₹ 1,69,070, but the assessee's case flagged in non-filers case, therefore, the Assessing Officer re-opened the assessment under section 147 of the Act and notice was issued under section 148 of the Act. However, the assessee submitted that it owns two Permanent Account Numbers, one in the capacity of firm which is AAVFS6355B and one more as Co-operative Society i.e., AARAS7485B. On 26/06/2019, the assessee made request to the Department to surrender PAN no. AAVFS6355B. However, the Department did not de-activate the said PAN- AAVFS6355B and, therefore, the AIR information filed in this PAN number was showing information to the Department. Accordingly, the Assessing Officer received information that the assessee had made cash deposit in the bank account which was not shown by it. The assessee also received interest income of ₹ 1,69,070, which was not shown in its return of income. The assessee filed various details during the course of assessment proceedings. However, the Assessing Officer was not satisfied with the assessee's explanations and proceeded to conclude the assessment by making addition of cash deposits of ₹ 1,45,72,081 and interest income of ₹ 1,69,070.

5. On appeal, the learned CIT(A) partly allowed the assessee's appeal confirmed the addition of ₹ 14,57,208, i.e., 10% of cash deposits of ₹ 1,45,72,081, as unexplained money under section 69A of the Act and interest

deleted the addition of ₹ 1,69,070, on account of interest income. While partly allowing the assessee's appeal, the learned CIT(A) observed as under:-

"3. Adjudication & Decision:-

3(a). The assessee raised many grounds but all are pointing towards the addition made by the AO on account of cash deposits of RS. 1,45,72,081/- and interest income of Rs. 1,69,070/- received from the Central Bank of India.

3(b). I have considered the facts and circumstances of the case. From the facts of the case, it is understood that the assessee made cash deposits in the Central Bank of India to the tune of Rs. 12,00,081/- and Rs. 1,33,72,000/- in the Bhandara District Central Cooperative bank totally amounting to Rs. 1,45,72,081/-. In this regard, the assessee submits that the receipts are mainly received from various members towards fresh deposits made by them and also loan repayments were received from borrowers. The assessee further submits that he is operating in a small place. The assessee filed cash books to support the sources of the cash deposits. He has also filed receipts given to various customers towards cash collections and recovery of loans.

3(c). I have gone through the details and it was found that the cash deposits were mainly collected due to fresh deposits and cash recoveries of loans. However, one to one correlation is not possible at this juncture. Therefore, to safeguard the interests of revenue, 10% of the deposits are hereby confirmed and the addition to this extent is hereby upheld and the balance addition is hereby deleted.

3(d). However, the addition towards interest income of Rs.1,69,070/- received from Central Bank of India was already included in the audited financial statements of the assessee. Therefore, there is no reason to make any addition on this account.

Accordingly, the assessee's grounds of appeal are hereby partly allowed.

In the result, the assessee's appeal is hereby partly allowed."

6. Having heard both the parties and on a perusal of the material available on record, I find that the assessee had filed its return of income under valid Permanent Account Number AARAS7485B and furnished the relevant records. The Department's own system continued to accept AIR data no a Permanent Account Number PAN no.AAVFS6355B, which was already marked as "surrendered". I further find that the learned CIT(A) accepted the explanation

but proceeded to uphold an arbitrary 10% addition without any independent basis or placing any evidence on record. There is no concept to safeguard the interest of Revenue by a judicial authority particularly when facts are crystal clear. In my considered opinion, once the explanation regarding source of cash is found substantially correct and not disproved, no addition under section 69A of the Act can be made merely on suspicion. There is no scope for ad-hoc and estimated addition in case of quantification of deemed income, because it is fact specific. Further the assessee is a pass through entity and addition if any can be done in the name of the depositors. The action of sustaining an ad-hoc portion despite acceptance of overall explanation lacks judicial backing. In this view of the matter, the entire addition sustained on account of addition of ₹ 14,57,208, on account of unexplained money under section 69A of the Act sustained by the learned CIT(A) is liable to be deleted. Consequently, I set aside the impugned order passed by the learned CIT(A) and direct the Assessing Officer to delete the addition of ₹ 14,57,208, and re-compute the income of the assessee accordingly.

7. In the result, assessee's appeal is allowed.

Order pronounced in the open Court on 27/05/2025

NAGPUR, DATED: 27/05/2025

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur