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आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1351/PUN/2023
निर्धारण वर्ष / Assessment Year : 2017-18

M/s. Mauli Mahila Nagari Sahakari Path Sanstha Limited, Opposite Gramin Police Station, Murud, Latur-413510 PAN : AADAM0619H	**Vs.**	Income Tax Officer, Ward – 1, Latur
अपीलार्थी / Appellant		**प्रत्यर्थी / Respondent**

Assessee by :	Shri Bhuvnesh Kankani
Department by :	Shri Ramnath P. Murkunde
Date of hearing :	19-08-2024
Date of Pronouncement :	12-09-2024

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 25.07.2023 of the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi **["CIT(A)"]** pertaining to Assessment Year **("AY")** 2017-18.

2. The assessee has raised the following grounds of appeal :-

"1. On facts and circumstances prevailing in the case and as per provisions and schemes of the Act it be held that the addition of Rs. 12,47,000/-so made by Ld. AO u/s 69A of the Act and that upheld by Ld. CIT(A) is incorrect and not in accordance with any of the provision of the Act. Thus, the additions so made & that upheld be kindly deleted and appellant be granted just and proper relief in this respect.

2. Without prejudice to above ground, on the facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the assessment so completed u/s 144 of the Act is incorrect and not in accordance with the provisions of the Act. The Order so passed by Ld. AO and that upheld by Ld. CIT(A) is incorrect. Accordingly, the assessment so completed be kindly quashed and appellant be granted just and proper relief in this respect.

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> 3. *Without prejudice to above grounds, on the facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the addition of Rs. 12,47,000/- so made by AO and that upheld by Ld. CITIA) is incorrect since the Appellant has duly explained and substantiated the nature and source of the funds received and deposited in bank. Accordingly, the additions so made & that upheld be kindly deleted and appellant be granted just and proper relief in this respect.*
>
> 4. *On the facts and circumstances prevailing in the case and as per provisions & scheme of the Act it be held that the Ld. CIT(A), National Faceless Appeal Centre, has not effectively granted an opportunity of Virtual Hearing, since the notice relating to Virtual Hearing was sent on an e-mail Id different than the registered e-mail id, and also different from the email id which was previously used by the very same Ld. CITA) for communicating other notice u/s 250. Thus, the CITIA) is not justified in arbitrarily upholding the addition so made by Ld. AO. Accordingly, it be kindly held that the addition so upheld by Ld. CIT(A) is against the principle of Natural Justice. Accordingly, the order of CIT(A) upholding the additions made in Assessment Proceeding be kindly quashed and appellant be granted just and proper relief in this respect.*
>
> 5. *The appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing."*

3. The assessee has also raised an additional ground of appeal vide its application dated 26.07.2024 which is as under :

> *"On the facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be kindly held that the Assessment Proceedings so completed are not in accordance with the provisions of Act since notice u/s 143(2) of the Act was not issued before passing the Assessment Order. Thus, in absence of said notice the Assessment proceedings so completed be kindly held to be invalid."*

4. The assessee has not pressed this additional ground before us and hence the same has not been considered and adjudicated upon.

5. Briefly stated, the facts of the case are that the data collected by the Income Tax Department under 'Operation Clean Money' reveal that the assessee had deposited cash of Rs.3,91,000/- in its Dena Bank Account, Murud (Account No. 43710041104) and Rs.9,70,080/- in Latur District Central Co-op. Bank, Murud (Account No. 101310131006215) totaling to Rs.13,61,080/- during demonetization period but had not filed its income tax return for AY 2017-18. Despite notices issued to the assessee, it failed to file its return of income and response to the detail questionnaire issued calling for certain information including therein the details of nominations of currency deposited during the demonetization period. The Ld. Assessing Officer **("AO")** therefore proceeded to complete the assessment u/s 144 of

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the Income Tax Act, 1961 (**the "Act"**) in terms of CBDT Circular No. F.No. 225/363/2017-ITA-II dated 26.07.2019. In para 4 of the assessment order, the Ld. AO noted that in response to the notice issued, the assessee submitted relevant documents which were examined and placed on record. The Ld. AO noted inter-alia that it is the submission of the assessee that during the period under consideration i.e. AY 2017-18 cash deposited in the bank account were received from various customers and tenants. In para 5 of his order the Ld. AO has observed that regarding cash deposit in the bank account the assessee stated that during the demonetization period the assessee society has deposited cash of Rs.13,61,080/- in Dena Bank, Murud Branch. Further, the assessee stated that the cash deposited amounting to Rs.1,14,080/- on 08.11.2016 was legal tender and the same was received from tenants of the assessee society and from its members. In support of this contention the assessee submitted documents i.e. rent agreement and deposit denomination details and other relevant documents which were examined by the Ld. AO and placed on record.

5.1 Thereafter, the assessee was asked to explain the sources of remaining amount of Rs.12,47,000/- deposited during the demonetization period. In response to which the assessee submitted the computation of total income and the amount of Rs.12,47,000/- were stated to be out of income from other sources. The Ld. AO in the absence of any straight and concrete evidences, treated the amount of Rs.12,47,000/- as unexplained money and added to the total income of the assessee u/s 69A r.w.s. 115BBE of the Act. Accordingly, the Ld. AO computed total income of Rs.12,47,000/- in assessment order dated 12.09.2019 passed u/s 144 of the Act.

6. Aggrieved, the assessee challenged the matter in appeal before the Ld. CIT(A). The Ld. CIT(A) observed that the cash deposits made by the assessee society during the demonetization period have been collectively treated as unexplained money by the Ld. AO for the reason that the assessee is not an authorized person to collect the SBN after 08.11.2016. However, the Ld. AO should have treated the cash deposits as unexplained income u/s 68 and not u/s 69A of the Act but this fact itself does not change the character of the money. The Ld. CIT(A) therefore upheld the addition of Rs.12,47,000/-made by the Ld. AO. The relevant observations

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and findings of the Ld. CIT(A) recorded in paras 6, 6.1, 6.2 and 6.2.1 of the appellate order are reproduced below:

> *"6. Ground No.2 relate to cash deposited during the demonetization period and treating the same as unexplained money u/s.69A of the Act. The AO held that the appellant deposited cash amounting to Rs.13,61 ,080/- in Dena Bank and Latur Disrict Central Co-operative Bank during demonetization period. The AO held that out of Rs.13,61,080/-, an amount of Rs.1,14,080/- was deposited on 08.11.2016 which was legal tender and balance amount of Rs.12,47,000/- was deposited after 08.11.2016 which was not legal to accept from its member. Therefore, the AO treated the cash deposit of Rs.12,47,000/- as unexplained money u/s.69A of the Act and added to total income of the appellant.*
>
> *6.1 The appellant filed its submissions on the cash deposits during demonetization period, which is as follows:*
>
> > *(1.1) As submitted above, the Appellant is a credit co-operative society, the cash (money) so deposited in the Bank Accounts of the Appellant are duly sourced from the Members of the Appellant Co-operative Society.*
> >
> > *(1.2) Since Appellant is engaged in the business of banking and providing credit facilities to its members. The routine activities of the Appellant society are to - receives cash from the borrowers as loan repayment and depositors as deposit of their money. - Pay cash to borrowers as loan and depositors as withdrawal of their own money.*
> >
> > *(1.3) Accordingly, the net money which remains with the Appellant society at the end of day or any carried forward cash balance from previous day is deposited into the bank accounts maintained by with Dena bank and LDCC bank.*
> >
> > *(1.4) Thus, the money so deposited into both the banks are purely sourced from the members. In the instant case the addition of Rs.12,47,000/- is of cash deposited into banks on 10 and 11th November 2016.*
> >
> > *(1.5) Sir, said cash deposited is substantially received by the Appellant on the 9th and 10th only. Sir, we are enclosing herewith the cash book for the month of November 2016 as Enclosure No.4 for your ready reference.*
> >
> > *(1.6) Further, we humbly seek your kind attention on the Enclosure No.1 which contains the 'Counter slips'/'receipts' of cash received from the members by the Appellant on 08/11/2016 to 10/11/2016, on sample basis. Said slips can be cross verified with the names as appearing the cash book enclosed at Enclosure No.4. (1.7) Sir, from the cash book it is evident that the cash so deposited is completely sourced from the members of the Appellant Society.*
> >
> > *(1.8) In view of above facts, we humbly submit that the money so deposited into bank account is not unexplained money but the money received from the members.*
> >
> > *(1.9) Therefore, the money deposited in bank by the Appellant is accounted money and thus, the addition made by the Ld. AO is totally incorrect and not according to the provisions of the Act.*

(1.10) Thus, we humbly request your goodselves to kindly delete the addition so made by the Ld. AO 4. Our Submission with regard to applicability of provisions of section 69A of the Act.

2. Our Submission with regard to applicability of provisions of section 69A of the Act.

(2. 1) Sir, the provisions of section 69A of the Act are not applicable in. the instant matter since the money deposited in the bank is duly recorded in the books of accounts of the appellant.

Said, contention is arising out of the provision of section 69A itself Section 69A is reproduced herein under for your ready reference,

Unexplained money, etc.

69A. Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or, the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.

(2.2) Sir, section 69A will get trjggered only if following conditions are satisfied a. Assessee is found to be the owner of money, bullion, jewellery or other valuable article b. Such money etc. is not recorded in books of accounts of the assessee AND c. Assessee offers no explanation in this regard Or The explanation offered is not satisfactory.

(2.3) Above being the preconditions, one of the crucial and most relevant precondition of 'Money not being recorded in books of accounts of assessee' is missing in the instant case of appellant since aI/ the money deposited are duly forming part of books of accounts of the assessee and properly accounted.

A brief summary of applicability of preconditions can be demonstrated as under,

Preconditons	*Whether Applicable (if not why)*
Whether, Assessee is found to be the owner of money, bullion, jewellery or other valuable article.	*Yes*
Whether, such money etc. is not recorded in books of accounts of the assessee.	*No (All the cash deposited is sourced from the its members and is property recorded in books of account-Cash book was already furnished before AO, though the same is not mentioned in the order)*
Assessee offers no explanation in this regard Or The explanation offered is not satisfactory	*Not relevant, since appellant has recorded cash (money) in its books this step of seeking explanation does not arise. However, Appellant in good faith have provided entire explanation*

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	of each penny.

The crux of our above tabulated submission is, condition of providing explanation arises only and only when the money. bullion or jewellery is not recorded in books of account. Accordingly, in the instant case since all the cash deposits are duly accounted in cash book' the provisions of section 69A does not apply. '(However, it be please' noted that Appellant has duly provided detailed explanation in good faith since there is nothing to hide)

(2.4) Our above contention that section 69A should not be invoked in case all the money so found is recorded in books of accounts finds its roots in the judgments pronounced by the judiciary. Few Judgements on which we rely are as under,

Hon'ble Mumbai ITAT -in Dy. CIT vs. Karthik Construction Co., (ITA No.2292/Mum/2016) wherein it was held as under (Kindly refer para 6 of the order enclosed at Enclosure No.5) Therefore, the only thing which requires to be examined in the present appeal is whether the addition made under section 69A of the Act can be sustained. A reading of section 69A of the Act makes it clear, addition can only be made when the assessee is found to be in possession of money bullion jewellery, etc., not recorded in his books of account.'

b. Hon'ble Bangalore ITAT - in Smt. Teena Bethala Vs. ITO (ITA JO. 1383 and 13841Bang12019) (Kindly refer para 7.3.3 of the order enclosed at Enclosure No.6),

Para 7.3.3 On a reading of section 69A (supra), it is clear that the onus is upon the AO to find the assessee to be the, owner of any money, bullion, jewellery or valuable article and such money, bullion, jewellery or valuable article was not recorded in the books of account,

if any, maintained by the assessee for any source of income. In these circumstances, the AO can resort to making an addition under section 69A of the Act only in respect of such monies 1 assets 1 articles or things which are not recorded in the assessee's books of account. In the case on hand, the cash deposits are recorded in the books of account and are reportedly made on the receipt from a creditor. Further, the PAN and address of the creditor as well as ledger account copies of the creditor in the assessee's books of account have also been field before the AO. In these circumstances, it is evident that the AO has not made out a case calling for an addition under section 69A of the Act. Probably, an addition under section 68 of the Act could have been considered; but then that is not the case of the AO. The assessee, apart from raising several other grounds, has challenged the legality of the addition being made under section 69A of the Act. In support of the assessee's contentions, the learned AR placed reliance on the decision of the ITAT - Mumbai Bench in the case of DCIT Vs. Karthik Construction Co. in ITA No.2292/Mum/2016 dated 23.02.2018, 'wherein the Bench at para 6 thereof has held that addition under section 69A of the Act cannot be made in respect of those assets 1 monies 1 entries which are recorded in the assessee's books of account. In my considered view, the aforesaid decision of the ITAT - Mumbai Bench (supra) is squarely applicable to the facts of the case on hand, where the entries are recorded in the assessee's books of account. In this view of the matter, I am of the opinion that the addition of Rs.6,30,000/- made under section 69A of the Act is bad in law in the facts and circumstances of the case on

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hand and therefore delete the addition of Rs.6,30,000/- made thereunder. The AO is accordingly directed.'

(2.5) In view of our above submission, we humbly and most respectfully submit that the entire amount of addition u/s 69A categorized as unexplained is totally incorrect since entire amount is duly recorded in books of accounts the source of which is properly and in detail explained to the Ld. AO and vide this submission also. thus, the addition so made be kindly deleted.

(3) Our Submission with regard to legality of Depositing the Specified Bank Notes and its relevance under section 69A, we respectfully submit that

(3.1) Sir, we humbly wish to highlight that, all the above facts were duly presented before the Ld. AO and were also perused by the him, owing to which he accepted the explanation provided for part of the deposits i.e., for Rs.1,14,080/-, whereas, balance deposits of Rs.12,47,000/- were considered by the Ld. AO as unexplained. The interesting aspect is that the explanation and evidences provided for the accepted amount and the added amount were same/identical. Thus, apparently, the only reason which could be understood, for making the addition of balance of Rs.12,47,000/- is just that the said amount of Rs.12,47,000/- was in demonetized currency notes! Specified Bank Notes ('SBN').

(3.2) Sir, Accordingly, the Ld. AO has made the addition only on one ground that appellant has deposited Specified Bank Notes ('SBN') during the Demonitization period, irrespective to the fact that said cash was duly recorded in books of accounts and the source of which was also very clearly explained.

(3.3) Sir, considering the above reason, Ld. AO has totally erred on understanding the legal position of accepting Specified Bank Notes before 31.12.2016.

3.4) Sir, according to the provisions of THE SPECIFIED BANK NOTES CESSATION OF LIABILITIES) ACT, 2017 (The SBN Act] the RBI's liability with regard to the bearer of the SBN was ceased on and from 31st December 2016 i.e., not before that. The relevant provision of said SBN Act is reproduced herein under for your ready reference,

'On and from the appointed day, notwithstanding anything contained in the Reserve Bank of India Act, 1934 or any other law for the time being in force, the specified bank notes which have ceased to be legal tender, in view of the notification of the Government of India in the Ministry of Finance, number S.O. 3407(E), dated the 8th November, 2016, issued under sub-section (2) of section 26 of the Reserve Bank of India Act, 1934, shall cease to be liabilities of the Reserve Bank under section 34 and shall cease to have the guarantee of the Central Government under sub-section (1) of section 26 of the said Act.

3.5) Whereas as per section 2 (1)(a) Appointed day is 31St day of December 2016. Relevant section is reproduced as under,

(1) In this Act, unless the context otherwise requires, -

(a) "appointed day" means the 31st day of December, 2016;

(3.6) Accordingly, till 31.12.2016 anybody who was in possession of

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those SBN was entitled to get the equivalent consideration from RBI.

(3.7) I.e., though from 08th November 2016, the SBN ceased to be legal tender Money, they were not declared to be illegal Article/thing/document/paper to possess as like Contraband articles. Since these SBN weren't illegal, the same were considered as a commodity for barter which had a value till 31.12.2016. (3.8) Sir, Money may be defined as anything which is generally acceptable as a medium of exchange and at the same time acts as a measure, store or value and standard of deferred payment. (This is the definition included in books of class 12th of CBSE syllabus).

(3.9) Further, the phrase 'Legal Tender' mens one can enforce making payment in that Specific Currency. Whereas, once a particular Note is declared to be 'Not Legal Tender' it means one cannot force another person to accept those Notes. However, if both the transacting parties has no problem in transacting in those SBN then it's a valid consideration. That is to say, just the enforceability is taken away not the barter value.

(3.10) Sir, the intention 6f submitting above aspects of SBN and its legality with regard to its exchange value is to highlight that Appellant has not done any illegal activity by receiving the SBN and depositing in its Bank Account.

(3.11) Further, without prejudice to above submission, Sir, the most crucial aspect which we most respectfully wish to submit is that whatever may be the legality of SBN, the appellant has not ultravired the provisions of Income-tax Act, 1961. Ld. AO has failed to bring on record under which provision of the Act is the action of appellant is barred.

(3.12) As per section 69A of the Act Appellant has duly provided its source of generating cash which is ignored by the Ld. AO whereas the addition is made on the point that Appellant has accepted SBN which are not legal tender. Said conclusion of Ld.AO lacks backing in the provisions of Income-tax Act, 1961.

(3.13) Accordingly, we humbly and most respectfully submit that the addition so made by Ld. AO be kindly deleted and appropriate relief be granted to the Appellant on merits and legality.

6.2 The addition made by the Assessing Officer and the submissions of the appellant have been perused. It is seen from the assessment order that the appellant had claimed to have been collected cash from its members and the same were deposited in two bank accounts as mentioned in the assessment order which comes to Rs.13,61,080/- and out of which an amount of Rs.1,14,080/- was deposited on 08.11.2016, which is a legal tender and the balance amount of Rs.12,47,000/- was deposited by the appellant on 10.11.2016 and 11.11.2016 which was collected from its members on 10.11.2016.

6.2.1 As per the receipts of Appellant Society filed during the course of appeal proceedings shows that the appellant has collected cash of Rs.12,47,000/- on 10.11.2016 from its members and deposited the same on two dates i.e. 10.11.2016 and 11.11.2016 with Dena Bank, Murud. As per the Gazette Notification, the appellant is not an authorized person to collect specified notes subsequent to 08.11.2016. The contention of the appellant that though from 8th November, 2016 the SBN ceased to be legal tender Money, they were not declared to be illegal. Since these SBN weren't illegal,

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> *the same were considered as a commodity for barter which had a value till 31.12.2016. It is to note that the SBNs weren't illegal for individuals and they were allowed to deposit the S8N till 31.12.2016 and not for the Societies to accept SBN after 08.11.2016. The appellant is not an authorized person to collect the SBN after 08.11.2016. Therefore, the explanation offered that they belong to members of society has no relevance. They have been correctly treated as unexplained money. The AO should have treated it as unexplained income u/s.68 and not under section 69A of the Act and this fact itself does not change the character of the money. Therefore, the addition made by the AO is upheld and the ground No.2 is dismissed."*

7. Dissatisfied, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

8. The Ld. AR submitted that the limited issue involved in the present appeal is that whether depositing of SBN(s) during demonetization period in bank can be the reason for addition u/s 69A of the Act. He submitted that the Ld. CIT (A) at para 6.2 and 6.2.1 of appellate order has accepted the source of money but has upheld the addition only because the said money was SBN and were deposited during demonetization period. He relied on the decision of the Co-ordinate Bench of the Tribunal in the case of ITO Vs. Ambika Gramin Bigarsheti Sahakari Patsanstha in ITA No. 1104/PUN/2023 for AY 2017-18 dated 04.06.2024 and in the case of M/s. Bhagur Urban Co-operative Society Ltd. Vs. ITO in ITA No. 561/PUN/2022 dated 03.01.2023 wherein exactly same issue has been adjudicated in favour of assessee.

9. The learned DR relied on the order of the Ld. AO and the Ld. CIT(A).

10. We have heard the Ld. Representatives of the parties and perused the material on record. It is an undisputed fact that the assessee society has collected cash from its members which were deposited in its bank accounts i.e. Dena Bank, Murud and Latur District Co-operative Bank, Murud during the demonetization period. Before us, the assessee has not disputed the applicability of section 69A of the Act viz-a-viz section 68 of the Act in respect of the impugned transaction i.e. the addition of Rs.12,47,000/ being the cash deposited during the demonetization period to the income of the assessee. The only issue to be decided pertains to whether depositing of SBN during demonetization period in Bank can be added to the income of the assessee under the provisions of section

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68/69A of the Act. The Ld. CIT(A) has categorically recorded a finding of fact that as per the receipts of the assessee society filed during the appeal proceedings shows that the assessee collected cash of Rs.12,47,000/- on 10.11.2016 from its members and deposited the same on two dates i.e. on 10.11.2016 and 11.11.2016 with Dena Bank, Murud. The Ld. CIT(A) confirmed the addition made by the Ld. AO for the reason that as per the Gazette Notification SBNs were not illegal for individuals and they were allowed to deposit the same till 31.12.2016 but it was illegal for the societies to accept SBN after 08.11.2016. The assessee society is not an authorized person to collect the SBN after 08.11.2016 and therefore the explanation offered by the assessee that the SBNs belong to the members of the society has no relevance.

11. It has been the submission of the assessee all along that the cash deposited during the demonetization period has been received from its members in the regular course of its business which fact has been duly accepted by the Ld. CIT(A) and recorded by him in para 6.2.1 of the appellate order (reproduced above). The fact on record (pages 1 to 59 of the assessee's paper book) reveals that the assessee had placed the relevant documents with respect to the source of cash deposited during the demonetization period. Nothing has been brought on record before us by the Revenue to prove otherwise.

12. The ld. AR though admitted that the assessee may have violated the relevant provisions of law by accepting SBN from its members subsequent to 08.11.2016. However, both the Ld. CIT(A) and the Ld. AO have not taken into consideration the legality of SBN and that the assessee has not ultravired the provisions of the Act. Therefore, no addition u/s 69A is warranted under the present facts and circumstances of the case.

13. We are inclined to agree with the submissions of the Ld. AR that there is no dispute with regard to the source of money i.e. cash deposits which have been received by the assessee society form its members and the case of the assessee finds support by the decision of Co-ordinate Bench of the Tribunal in the case of Ambika Gramin Bigarsheti Sahakari Patsanstha (supra) and M/s. Bhagur Urban Credit Co-operative Society Ltd. (supra) however, we, also express our opinion that appropriate legal

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action may be initiated under the relevant provisions of law with respect to acceptance of SBN subsequent to 08.11.2016.

14. We have perused the decision of Co-ordinate Bench of the Tribunal in the case of Ambika Gramin Bigarsheti Sahakari Patsanstha (supra) wherein under the similar set of the facts to that of the assessee in the present appeal the Tribunal deleted the addition in respect of cash deposited during the demonetization period u/s 68 of the Act by recording its findings in paras 3, 4, 5 and 6 as under :

> *"3. Both the learned representatives next invited our attention to the learned NFAC's detailed discussion reversing the Assessing Officer's findings making sec.68 unexplained cash credit addition in question of Rs.1,20,45,000/- as under :*

> **5. Ground No 1** is directed against the Assessing Officer (hereinafter referred to as 'the AO') making addition of Rs. 1,20,45,000/- u/s.68 of the Act on account of unexplained cash credit.The brief fact of the case is that the appellant filed the return of income for the AY 2017-18 on 29.08.2017 declaring a total income of Rs Nil after claiming deduction of Rs 4,78,904 u/s 80P of the Act. The case was selected for scrutiny. During the course of assessment proceedings, the AO found that the appellant had deposited substantial cash in its bank account during the demonetization period. The appellant submitted that the cash in Specified Bank Notes (SBN) was deposited into the banks account out of the amount collected from its members. The AO held that the appellant has accepted cash from its members during demonetization in infringement of law and against the policy of the government. The AO held that in terms of Gazette Notification No 2652 dated November 08,2016 issued by the Government of India, existing series of Bank notes in denomination of Rs 500 and Rs 1000 issued by RBI shall cease to be legal tender with effect from 9.11.2016. therefore, the AO rejected the claim of the appellant that has accepted cash from its members during demonetization and treated it as unexplained cash credit u/s 68 of the Act. Therefore, the AO added Rs 1,20,45,000 u/s 68 of the Act.

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5.1 The appellant during the course of appeal proceedings has submitted as under:

"2.3 Contention of the Appellant:

At the outset, it is submitted that the credit entries in respect of amounts received from members of the society on 09, 10 and 11 November which includes SBNs or supported by the cash book and record maintained by the appellant society which is duly audited by Government Auditors. The source of the deposits were not disputed by the AO. The AO has not accepted the impugned credit entries and added the same u/s 68 only for the reason that the society had accepted SBNs from members and as per AO such acceptance of SBNs was not permissible and the said notes were worthless pieces of papers. This contention of the AO is legally unjustified and incorrect in view of the provisions of section 5 of and Section 2(1)(a) of Specified Bank Notes (Cessation of Liabilities) Act, 2017 as per which any person can transfer or received SBNs upto 30/12/2016. Therefore, the contention of the AO is against the provisions of the Specified Bank Notes (Cessation of Liabilities) Act, 2017. Therefore, the addition u/s 68 is based on incorrect and unjustified reason.

(1) The SBNs deposited in bank is from explained source and hence addition of Rs. 1,20,45,000/- u/s 68 of is not justified.

The activity of the credit co-op. societies is governed by Co-Operative Department of Government of Maharashtra and also by RBI. The books of accounts of the patsanstha are audited by Government Auditors and the same were accepted to be true and fair by the Auditors.

The activity of the pathsansthas& bank are similar and hence all the pathsansthas were under bonafide belief that they are allowed to accept SBNs and accordingly they have accepted SBNs on 10/11/2016 & 11/11/2016. Thereafter to clarify the position, the Assistant Sub-Registrar of Co-operative societies, had issued clarification on 11/11/2016 which was received by the appellant patsanstha on 6.15 p.m. on 11/11/2016 that the patsansthas should not accept SBNs. Therefore after 6.15 p.m. of 11/11/2016, the appellant patsanstha had not accepted any SBNs from its members.

The AO had treated the credit entries of amounts received from members as deposit in saving account, current account, loan account and fixed deposit account on 10/11/2016 & 11/11/2016 as unexplained cash credit and the amount received was held to be undisclosed income of the appellant patsanstha. This contention of the AO is apparently incorrect in view of the following facts:

During assessment proceedings, the appellant had filed details of members along with their ledger extracts, showing amounts received from them as deposit in saving account, current account, loan account and fixed deposit account on 10/11/2016 & 11/11/2016. The details of members includes their names, addresses, PANs, amount deposited, the details of which are on the record of the patsanstha. The AR of the appellant has also shown his willingness to produce the impugned members before the AO for verification, if needed. The appellant has also submitted to the AO vide submissions dated 20/04/2019, 27/08/2019, 21/11/2019 and 09/12/2019 that in view of the facts of the case and submission filed, the identity & creditworthiness of the members stands proved and genuineness of the transaction is also proved. The copy of submission dated 20/04/2019 alongwith final statements of accounts is attached as Annexure-2, the copy of submission dated 27/08/2019 alongwith details of customers including PAN is attached as Annexure-3, The copy of submission dated 21/11/2019 is attached as Annexure-4. The AO has ignored the above facts and did not verify the impugned members/creditors and treated the impugned credits in the accounts of the patsanstha as unexplained cash credit.

The details of total deposits in bank of Rs. 1,20,45,800/- during demonetization period is as under:

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Particulars	Amount
Out of balance as on 8/11/2016 Rs. 6,34,689/- SBNs deposited	2,29,500
SBNs deposited on 8/11/2016 i.e. before demonetization period	6,50,000
Out of deposits / loans repayments received from members	1,11,66,300
Total	1,20,45,800

However, it appears that, due to heavy work load, the AO had not considered the above fact, while passing the assessment order.

In view of the above facts, the AO should have verified the impugned members about source of SBNs deposited by them in the patsanstha, particularly in view of the fact that the appellant patsanstha had filed their full details alongwith PANs. It is very much unjustifiable to tax the patsanstha for the SBNs held by its members, details of which are filed with the AO. In short, the impugned members have deposited their SBNs in bank through patsanstha and hence the patsanstha should not be held responsible for their SBNs deposited in bank accounts. The huge demands raised by the Department on patsansthas shall certainly hamper the co-operative movement and if the impugned demands are recovered from patsansthas they will become bankrupt. In any case, in view of the facts of case mentioned above, the addition u/s.68 of the Income-tax is not justified.

Further, it is worth mentioning here as under:

Addition as per provision of section 68 is not justified in view of the facts of the case and ratio laid down by Honorable Bombay High Court:

i) Honorable Bombay High Court had held in the recent decision in the case of Mr. Gaurav Triyugi Singh V/s. The Income Tax Officer-24(3)(1) INCOME TAX APPEAL NO. 1750 OF 2017 order dated 22/01/2020 that where 3 conditions are fulfilled then no addition can be justified u/s 68 of the Act. The relevant portion of the decision is reproduced below:

"12 At this stage, it would be apposite to advert to section 68 of the Act, relevant portion of which reads as under :

"68. Where any sum is found credited in the books of an assessee maintained from any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income - tax as the income of the assessee of that previous year. ...."

12.1. From a reading of section 68, as extracted above, it is seen that if an amount is credited in the books of an assessee maintained from any previous year and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income tax, as the income of the assessee of the relevant previous year.

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13. Section 68 of the Act has received considerable attention of the courts. It has been held that it is necessary for an assessee to prove prima facie the transaction which results in a cash credit in his books of account. Such proof would include proof of identity of the creditor, capacity of such creditor to advance the money and lastly, genuineness of the transaction. Thus, in order to establish receipt of credit in cash, as per requirement of section 68, the assessee has to explain or satisfy three conditions, namely : (i) identity of the creditor; (ii) genuineness of the transaction; and (iii) credit-worthiness of the creditor.

14. In Principal Commissioner of Income Tax vs. Veedhata Tower Pvt. Ltd., (2018) 403 ITR Borey 7/9 http://itatonline.org spb/ 15itxa1750-17.doc 415 (Bom), this court has held that assessee is only required to explain the source of the credit. There is no requirement under the law to explain the source of the source. In the instant case, there is no dispute as to the identity of the creditor. There is also no dispute about the genuineness of the transaction. That apart, the creditor has explained as to how the credit was given to the assessee. Thus assessee had discharged the onus which was on him as per the requirement of section 68 of the Act. What the Assessing Officer held was that sources of the source were suspect i.e., he suspected the two sources Shri Rajendra Bahadur Singh and Smt. Sarojini Thakur of the source Smt. Savitri Thakur.

15 In view of discharge of burden by the assessee, burden shifted to the revenue; but revenue could not prove or bring any material to impeach the source of the credit."

(ii) Further the Honourable Bombay High court has mentioned in the case of H.R. Mehta V. ACIT (2016) 289 CTR 0561 in pare 12 of the order as under:

12. The Hon'ble Supreme Court in Nemi Chand Kothari (supra) observed that in order to establish the receipt of a cash credit, the assessee must satisfy three conditions i.e. identity of the creditor, genuineness of the transaction and creditworthiness of the creditor.

In the case under appeal the Identity of the customers from whom the Patsanstha had received amount toward repayment of loan etc stands proved from their Aadhar cards, PAN and account with the Patsanstha since last many years. The details of customers from whom the SBNs were received were filed with the AO online on 27/08/2018 which includes Sr. No., PAN of the customer, name of the customer, nature of receipt, amount received and remark about the type of account in which the amount was deposited. Genuineness of the transaction is also proved from the books of accounts and record maintained by the Patsanstha which is audited by Government Auditor and activity of the patsanstha is also controlled by Co operative Department of Government of Maharashtra. The creditworthiness of the customers is also established from the details of the customers available with the Patsanstha which was collected before advancing loan etc. Further the appellant is a patsanstha, whose income is exempt u/s 80P and hence there is no possibility that the Patsanstha shall hide its income and introduce the same in the form of Unexplained cash credit. In view of the above facts and as all the three conditions mentioned above are fulfilled the addition u/s 68 is not justified.

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(iii) It is also pertinent to note here that the honorable Bombay High Court in the case of Narendra G. Goradia (HUF)Vs. CIT (1998) 234 ITR 057, had laid down , while deciding issue of demonetized high denomination notes of Rs.1,000 that in the case of encashment of high demonetization notes the assessee was required to prove source of money. Once the source of money is proved the assessee could not be asked to furnish proof of acquisition of such currency notes. Where source of amount was not in dispute or if proved by the assessee no addition can be made u/s 68 as unexplained cash credit.

In the case under appeal the source of amount credited in the cash book is proved from the books of accounts and records maintained by the society which is duly audited. The AO had made addition not for not proving source of amount received but for acceptance of SBNs after 8/11/2016. In view of the above facts it is evident that no addition can be made under any section of the Income tax Act including Section 68.

(2)The AO had incorrectly assumed that the transactions of SBNs were not permitted during demonetization period and the SBNs were worthless papers and cannot be treated as legal tender and hence did not accept the credit entries received from members.

It is worth mentioning here that the AO has held that the impugned SBNs of Rs. 500/- & Rs. 1000/- deposited by members are worthless pieces of papers. This contention of the AO is apparently incorrect as the impugned SBNs became worthless pieces of papers only after 30/12/2016 as the RBI had promised to pay the amount mentioned in the said SBNs and banks have given credit of the SBNs deposited with them upto 30/12/2016.

*The above contention is supported by provisions of **Specified Bank Notes (Cessation of Liabilities) Act, 2017**. Section 5 of this Act reads as under:*

"On and from appointed day, no person shall knowingly or voluntarily, hold transfer or receive any specified bank note."

Section 2(1)(a) of this Act defines "appointed day" to mean "31st day of December 2016" Therefore the AO has erred in treating the impugned notes received prior to 31/12/2016 as worthless papers and in making addition on this wrong assumption.

The AO had noted that the appellant had accepted SBNs on 10/11/2016 and 11/11/2016. The AO had asked the appellant to explain the source of the SBNs and the appellant had submitted the same vide letter dated 29/11/2019. The AO had unjustifiably treated all the amounts received from the members of the appellant society in the ordinary course of its business towards loan account repayment, saving, recurring, fixed and daily deposits received from members during the said two days as deposits out of unexplained sources and added the same u/s 68 of the Act stating that the receipts of SBNs is not permissible from 9/11/2016 which is apparently incorrect as per provisions of Specified Bank Notes (Cessation of Liabilities) Act, 2017 as explained in the preceding para.

In view of the above facts, the addition u/s 68 is not justified on above counts.

5.2 I have carefully considered the facts of the case, the submission of the appellant and evidences on record.The AO did not accept the impugned credit entries and added the same u/s 68 only for the reason that the society had accepted SBNs from members and as per AO such acceptance of SBNs was not permissible. The appellant submitted that contention of the AO is legally unjustified and incorrect in view of the provisions of section 5 of and Section 2(1)(a) of Specified Bank Notes (Cessation of Liabilities) Act, 2017 as per which any person can transfer or received SBNs upto 30/12/2016. The appellant submitted that the activity of the credit co-op. societies is governed by Co-Operative Department of Government of Maharashtra and also by RBI. The appellant submitted that all the pathsansthas were under bonafide belief that they are allowed to accept SBNs and accordingly they have accepted SBNs on 10/11/2016 & 11/11/2016. Thereafter to clarify the position, the Assistant Sub-Registrar of Co-operative societies, had issued clarification on 11/11/2016 which was received by the appellant patsanstha on 6.15 p.m. on 11/11/2016 that the patsansthas should not accept SBNs. Therefore after 6.15 p.m. of 11/11/2016, the appellant submitted that it had not accepted any SBNs from its members.

5.3 The appellant submitted that during the assessment proceedings, the appellant had filed details of members along with their ledger extracts, showing amounts received from them as deposit in saving account, current account, loan account and fixed deposit account on 10/11/2016 & 11/11/2016. The details of members includes their names, addresses, PANs, amount deposited, the details of which are on the record of the patsanstha. The appellant submitted that the AR of the appellant has also shown his willingness to produce the impugned members before the AO for verification, if needed. The appellant has also submitted to the AO vide submissions dated 20/04/2019, 27/08/2019, 21/11/2019 and 09/12/2019 that in view of the facts of the case and submission filed, the identity & creditworthiness of the members stands proved and genuineness of the transaction is also proved.

5.4 The details of total deposits in bank of Rs. 1,20,45,800/- during demonetization period is as under:

Particulars	Amount
Out of balance as on 8/11/2016 Rs. 6,34,689/- SBNs deposited	2,29,500
SBNs deposited on 8/11/2016 i.e. before demonetization period	6,50,000
Out of deposits / loans repayments received from members	1,11,66,300
Total	1,20,45,800

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The appellant submitted that the addition as per provision of section 68 is not justified in view of the facts of the case. The appellant has also relied on a number of judicial decisions.

5.5 The appellant also submitted that the AO had incorrectly assumed that the transactions of SBNs were not permitted during demonetization period . The appellant submitted that the impugned SBNs became worthless pieces of papers only after 30/12/2016 as the RBI had promised to pay the amount mentioned in the said SBNs and banks have given credit of the SBNs deposited with them upto 30/12/2016. Section 5 of Specified Bank Notes (Cessation of Liabilities) Act, 2017reads as under: "On and from appointed day, no person shall knowingly or voluntarily, hold transfer or receive any specified bank note." Section 2(1)(a) of this Act defines "appointed day" to mean "31st day of December 2016".

5.6 The Hon'ble ITAT Bangalore in the case of Sri Bhageeratha Pattina Sahakara Sangha Niyamitha vs. ITO (ITA No.646/Bang/2021 dated 18-02-2022) on identical circumstances has held as under:

"12. The last issue relates to addition made u/s 68 of the Act. The A.O. noticed that the assessee society has deposited "Specified bank notes" (demonetized notes) in the account maintained by it with CDCC Bank, Hosadurga as detailed below:-

Date of deposit No. of notes of Rs.1000 No. of old notes of Rs.500 SBN deposit

10.11.16 700 600 10,00,000

11.11.16 463 1150 10,38,000

12.11.16 38 137 1,06,500

13.11.16 138 330 3,03,000

Total 1339 2217 24,47,500

When enquired about the sources for making the above deposits, the assessee submitted that they represent cash received by it from its members towards repayment of loan, Pigmy collection, etc. The A.O. noticed that the Government has announced demonetization on 8.11.2016, whereby then existing Rs.1000/- & Rs.500/- currency notes were declared not to be legal tender. The A.O. took the view that the assessee has collected the above said amount after 8.11.2016, which is not permitted. Accordingly, the A.O. took the view that the above said amount represents unexplained money of the assessee and assessed the same u/s 68 of the Act. The A.O. also charged income tax on the above said deposit as per provisions of section 115BBE of the Act. The Ld. CIT(A) also confirmed the same.

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13. The Ld. A.R. submitted that, under the provisions of section 68 of the Act, the assessee's liability is to explain the nature and sources of the money. He submitted that the assessee has explained the nature as well as sources i.e. the above said deposit was made out of its collections in the ordinary course of carrying on business, i.e., it represented money deposited by its members towards repayment of loans, pigmy deposits, etc. Accordingly, he submitted that the assessee has discharged its responsibility u/s 68 of the Act. Further, the collections and deposits have been duly recorded in the books of account and hence, there is no reason to treat the same as unexplained money of assessee. The Ld. A.R. further submitted that merely because demonetized notes ceased to be legal tender, it does not mean that the amount collected by the assessee from its members would become unexplained money of the assessee. The Ld. A.R. also submitted that the Reserve Bank of India issued a series of notifications with regard to the deposit of demonetized notes from 8.11.2016 onwards. He submitted that the RBI, vide notification dated 14.11.2016, clarified that District Central Co-operative Banks can allow their existing customers to withdraw money from their accounts up to Rs.24,000/- per week. It further clarified that no exchange facility against demonetized notes or deposit of such notes should be entertained by them. In view of the above said notification, the assessee has stopped collecting the demonetized notes from 14.11.2016 onwards. Accordingly, the Ld. A.R. submitted that the above said deposits were collected by the assessee prior to 14.11.2016 and it cannot be considered as violation of any of the Provisions of the Act. Accordingly, he submitted that the A.O. was not justified in invoking the provisions of section 68 of the Act.

14. I heard Ld. D.R. on this issue and perused the record. I notice that the A.O. has not doubted the submissions of the assessee that the above said amount of Rs.24,47,500/- represents collection of money in the normal course of carrying on of business of the assessee, i.e., it represents money remitted by the members of the assessee society towards repayment of the loan taken by them and also towards pigmy deposits, etc. The Ld A.R submitted that the assessee has duly recorded in its books of account the transactions of collections of money as well as deposits made into bank account. Thus, I notice that the assessee has explained the nature and source of the above said amount of Rs.24,47,500/-, which was in-turn deposited by the assessee society in its bank account and further, all these transactions have been duly recorded in the books of account. Hence, the above said deposits cannot be considered as "unexplained money" in the hands of the assessee.

15. The case of the A.O is that the assessee has collected the demonetized notes after 8.11.2016 in violation of the notifications issued by RBI. Accordingly, he has taken the view that the above said amounts represents unexplained money of the assessee. I am unable to understand the rationale in the view taken by A.O. I noticed that the AO has invoked the provisions of sec.68 of the Act for making this addition. I also noticed that the assessee has also complied with the requirements of sec.68 of the Act. The AO has also not stated that the assessee has not discharged the

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responsibility placed on it u/s 68 of the Act. Peculiarly, the AO is taking the view that the assessee was not entitled to collect the demonized notes and accordingly invoked sec.68 of the Act. I am unable to understand as to how the contraventions, if any, of the notification issued by RBI would attract the provisions of sec. 68 of the Income tax Act. In any case, I notice that the assessee has also explained as to why it has collected demonetized notes after the prescribed date of 8.11.2016. The assessee has explained that it has stopped collection after the receipt of notification dated 14.11.2016 issued by RBI, which has clearly clarified that the assessee society should not collect the demonetized notes. Accordingly, I am of the view that the deposit of demonetized notes collected by the assessee from its members would not be hit by the provisions of section 68 of the Act in the facts and circumstances of the case. Accordingly, I set aside the order passed by Ld. CIT(A) on this issue and direct the A.O. to delete this disallowance."

5.7 In the case of Prathamika Krushi Pattina Vs ITO [Appeal Number : ITA No. 593/Bang/2021 Date of Judgement/Order : 01/06/2022 Related Assessment Year : 2017-18] the Hon;ble ITAT Banglaore has hled as under:-

"6. In the instant case, there is no dispute with regard to the fact that sources for making deposit of Rs.36.36 lakhs by the assessee into its bank account are the money collected from its members. The AO is also not doubting that all the SBNs have been collected by the assessee from its members. Accordingly, following the above said decision, I hold that the addition made u/s 68 of the Act is not justified. The Ld A.R also submitted that the SBNs have been collected by the assessee prior to the appointed date of 31.12.2016, i.e., only from 31.12.2016, the assessee is precluded from accepting SBNs from its members. In this view of the matter, the reasoning relating to contravention of rules of RBI also fails."

5.8 Section 68 of the Act define as any sum is found in the books of account of an assessee in any previous year and assessee has not provided any explanation of source or explanation provided by the assessee is not, in the opinion of an Assessing Officer satisfactory, the sum so credited in the books of account of assessee may be charged to income tax as the income of the assessee of that previous year. An important part of this section is a sufficient and reasonable explanation for the nature and source of cash credit in an assessee's account books. Here, in the case of the appellant, the nature and source of the cash credit is explained by the appellant and is not doubted by the AO.I find that the A.O. has not doubted the submissions of the assessee that the said amount of Rs. 1,20,45,000 was deposited into the banks account out of the amount collected from its members. The AO held that the appellant has accepted cash from its members during demonetization in infringement of law and against the policy of the government. It may be so that the appellant has accepted the cash from its members during demonetization in infringement of law and against the

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policy of the government but it dies not mean that it is unexplained cash of the appellant. It represents collection of money in the normal course of carrying on of business of the assessee. I find that the appellant has duly recorded in its books of account the transactions of collections of money as well as deposits made into bank account. The appellant during the assessment proceedingshad filed details of members along with their ledger extracts, showing amounts received from them as deposit in saving account, current account, loan account and fixed deposit account on 10/11/2016 & 11/11/2016. The details of members includes their names, addresses, PANs, amount deposited, the details of which are on the record of the patsanstha. The AR of the appellant had also shown his willingness to produce the impugned members before the AO for verification, if needed. The AO has not carried out any enquiries from the members to verify the evidences and submissions of the appellant. It has not been proved by the AO that the cash deposited did not belong to the members.Therefore, I find that the identity & creditworthiness of the members stands proved and genuineness of the transaction is also proved. Hence, the above said deposits cannot be considered as "unexplained money" in the hands of the appellant.

5.9 Section 3 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 clearly states that the specified bank notes shall cease to be liabilities of the Reserve Bank under section 34 and shall cease to have the guarantee of the Central Government under sub-section (1) of section 26 of the said Act from the appointed date, i.e. 31st December, 2016. 2. Therefore, the contention of the AO that SBNs were just pieces of papers and they bear no value on or after 9th November appears incorrect in law.The SBNs of 500 and 1000 rupee denominations can be measured in monetary terms since the guarantee of Central Government and liability of Reserve Bank of India does not cease to exist until 31st December 2016 in lieu of the 500 and 1000 rupee SBNs. Due to the sudden announcement of demonetization, there is merit in the claim of the appellant that all the pathsansthas were under bonafide belief that they are allowed to accept SBNs and accordingly they have accepted SBNs on 10/11/2016 & 11/11/2016. It is also evident that after the Assistant Sub-Registrar of Co-operative societies, had issued clarification on 11/11/2016 which was received by the appellant patsanstha on 6.15 p.m. on 11/11/2016, the appellant did not accepted any SBNs from its members.

5.10 In view of the above discussion and the juridical decisions, the addition of Rs.1,20,45,000 is treated as not sustainable and is directed to be deleted.

4. We have given our thoughtful consideration to the Revenue's foregoing pleadings and assessee's vehement contentions raised during the course of hearing challenging correctness of the NFAC's impugned findings deleting sec.68 addition herein. There is hardly any dispute between the parties that the assessee had indeed made cash deposits of Rs.1,20,45,000/- during demonetization in the nature of specified bank notes; in the relevant previous year. It's stand all along has attributed source thereof to the receipts realized from it's members in the regular course of business activity(ies) only. We make it clear that even Revenue is fair enough in not raising any ground to this clinching effect that these cash deposits have not been realized or received from the assessee's members concerned. It's only case is that once these specified bank notes stood demonetized

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w.e.f. 01.01.2016; and the assessee was not entitled to receive the same in any capacity; whatsoever; the Assessing Officer had rightly invoked sec.68 of the Act.

5. This Revenue's stand fails to evoke our concurrence in the foregoing terms once it has come on record that the assessee had fully proved identity, genuineness and creditworthiness of it's members having deposited these specified bank notes. We deem it appropriate to observe here that the Income-tax Act is a self-contained code wherein an assessee has to prove the foregoing three limbs in order to get out of the rigor of sec.68 of the Act. This tribunal's recent coordinate bench's order in Shrijeet Finance (P) Ltd., vs. ACIT [2024] 162 taxmann.com 243 (Pune-Tribu.) has also rejected the Revenue's identical stand as under :

> *"5. During the assessment proceedings, the AO observed that the assessee has received cash in old currency during the demonetization period between 08.11.2016 to 13.12.2016 of Rs.12,34,000/-. The assessee submitted before the AO that these amounts were deposited by their customers towards the loan installments. Assessee submitted list of customers. Assessee also submitted that all the customers were having proper KYC Documents. However, the AO made addition under section 68 of the Act, on the ground that as per the RBI Guidelines assessee being an NBFC was not permitted to accept the old currencies which were no-more legal tender after 08.11.2016. Ld.CIT(A) confirmed the said addition. The only plea taken by the AO, ld.CIT(A) and ld.DR that as per the notification no.S.O. 3407(E) dated 08/11/2016 & S.O. 3418(E) of Ministry of Finance (Department of Economic Affairs), New Delhi dated 08/11/2016 (F. No. 10/03/2016-cy.l) only banking company defined under the Banking Regulation Act were allowed to accept demonetized currency after 08.11.2016, and NBFCs were not allowed to accept impugned currencies.*
>
> *5.1 The AO made addition under section 68 of the Act. To invoke section 68 of the Act, the AO has to prove that assessee failed to file identity of the depositors, genuineness of the transaction and creditworthiness. In this case, the assessee had submitted the names of the persons from whom cash was received during the demonetization period in the form of demonetized currency. Assessee also submitted that assessee maintains all KYC documents of all these persons. The AO had not asked the assessee to produce the said KYC Documents. Rather AO has not challenged the identity of the depositors, genuineness of the transactions and creditworthiness of the depositors. In these facts and circumstances of the case, we are of the opinion that no addition can be made under section 68 of the Act. We find support from the order of ITAT Pune Bench authored by then Hon'ble Vice-President, Shri R.S.Syal in the case of M/s.Bhagur Urban Credit Co-operative Society Ltd., Vs. ITO in ITA No.561/PUN/2022 for A.Y.2017-18 dated 03.01.2023. Therefore, the AO is directed to delete the addition of Rs.12,34,000/- made under section 68 of the Act. Accordingly, Ground No.2 and 3 are allowed."*

6. We adopt the foregoing detailed discussion mutatis mutandis to uphold the learned NFAC's order deleting the impugned addition. Ordered accordingly."

15. Similar view has been taken by the Pune Tribunal in the case of M/s. Bhagur Urban Credit Co-operative Society Ltd. (supra).

16. Respectfully, following the decision(s) of the Co-ordinate Bench of the Tribunal in the case of Ambika Gramin Bigarsheti Sahakari Patsanstha

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(supra) and M/s. Bhagur Urban Credit Co-operative Society Ltd. (supra) and on the facts and in the circumstances of the case, we are of the considerable opinion that the addition upheld by the Ld. CIT(A) is not sustainable. Accordingly, we hereby delete the addition of Rs.12,47,000/- made to the income of the assessee u/s 69A of the Act by the Ld. AO and upheld by the Ld. CIT(A). Accordingly, grounds Nos. 1 to 4 raised by the assessee are allowed.

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

Order pronounced in the open court on 12th September, 2024.

Sd/- (R.K. Panda) **VICE PRESIDENT**	Sd/- (Astha Chandra) **JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 12th September, 2024.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “ए” बेंच, पुणे / DR, ITAT, “A” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune