

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.139/Ahd/2024
Assessment Year: 2017-18**

Radha Mohan Education Charitable Trust, Gajendrasinh Lalsinh Rahevar, Chairman Radha Mohan Education Charitable Trust, At Village: Moyad – 383 120, Tal.: Prantij, Dist. Sabarkantha, Gujarat. [PAN – AABTR 3808 A]	Vs.	The Income Tax Officer (Exemption), Palanpur Dist. Banaskantha Gujarat.
(Appellant)		(Respondent)
Assessee by	Shri Dhinal Shah, AR	
Revenue by	Shri Arvind Kumar, CIT-DR	
Date of Hearing	05.06.2024	
Date of Pronouncement	08.08.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 24.11.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

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

- “1. The Ld. CIT(A) has erred in confirming the addition of Rs.12,04,000/- being the cash deposits made in the bank account under Section 69A in as much as the bank deposits in the bank accounts are duly recorded in the books of accounts and it is from explained sources and therefore Section 69A is not applicable on the facts of the case and therefore Section 115BBE is not applicable on the facts of the case.*

2. *The learned CIT(A) has erred in confirming the addition of Rs.1,22,83,426/- being the amounts reflected in the bank statements by cheque under Section 69A in as much as the same represents the borrowings from third parties which is duly recorded in the books of accounts and therefore the question of Section 69A does not arise.*
3. *The appellant says and submits that the borrowings are from genuine sources from identified persons and therefore the question of addition does not arise."*

3. Notice under Section 142(1) of the Income Act, 1961 issued on 08.03.2018 calling upon the assessee to prepare a true and correct return of income in respect of which the assessee is assessable under the Income Tax Act for Assessment Year (A.Y.) 2017-18. As per the provisions of Section 142(1) of the Act, the assessee was required to furnish the said return of income as required to be furnished as per the conditions and manner prescribed in Rule 12 of the Income Tax Rules, 1962 on or before 07.04.2018. But the assessee failed to furnish return of income under Section 139 (on or before 31.03.2018) and failed to furnish Income Tax return in response to notice under Section 142(1) of the Act. The Assessing Officer observed that the assessee Radha Mohan Education Charitable Trust deposited cash of Rs.4,90,000/- in its bank account during the demonetisation period (9th November 2016 to 30th December 2016) in old currency. Since the assessee has not responded any of the Statutory Notices and not filed the return of income, the Assessing Officer proceeded on the basis of Section 144(1)(b) of the Act. The Assessing Officer made addition of Rs.1,34,87,426/- as unexplained money under Section 69A of the Act.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the notices were sent physically to an address at Village: Moyad, District Mehsana instead of at the correct address of Village: Moyad – 383 120, Tal: Prantij, District Sabarkantha. Further, the online notices were not received since the Email ID was of the old Trustee who had not shared the notices and, therefore, the assessee could not comply the assessment notices. Though subsequently the assessee trust filed appeal before the CIT(A) physically, since in the absence of password and login ID, it was not possible to file online. Thus, though the

notices were received on one of the trustee's son's Email ID, but inadvertently he did not bring the same to the notice of his father who is the trustee in the assessee Trust. Therefore, the Ld. AR submitted that the matter may be remanded back to the file of the Assessing Officer as the assessee has filed additional evidences which has to be taken on record and the matter may be decided on merit.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee trust through the Chairman of the trust has filed the affidavit stating the actual reasons for not appearing before the Assessing Officer as well as before the CIT(A) and not filing the requisite documents before both the Authorities. The reasons appear to be genuine and hence it will be appropriate to remand back this matter to the file of the Assessing Officer for proper adjudication and verification of the documents filed by the assessee before us and by way of additional evidences. Thus, the additional evidences filed by the assessee are admitted and the Assessing Officer is directed to verify the same and adjudicate the matter in consonance with the Income Tax Statute and decide the issue as per law. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 8th August, 2024.

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 8th August, 2024

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

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*