

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No.41/Bang/2018
Assessment Year : 2014-15

M/s. Bhuvaneshwari Pattina Souharda Sahakari Niyamitha, Koppal Road, Gangavathi. PAN: AAAJB0697E	Vs.	The Income Tax Officer, Ward – 1, Koppala.
APPELLANT		RESPONDENT

Appellant by	:	Shri R.E. Balasubramanyam, CA
Respondent by	:	Shri L.V. Bhaskar Reddy, Addl. CIT (DR)

Date of hearing	:	22.03.2018
Date of Pronouncement	:	22.03.2018

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A), Gulbarga dated 29.11.2017 for Assessment Year 2014-15.

2. The grounds raised by the assessee are as under.

“The Appellant objects to the order of the Ld.CIT(A) on the following grounds that:

1. The impugned order is opposed to facts and law in so far as it is prejudicial to the interests of the Appellant.

2. The Ld.CIT(A) erred in denying the deduction under section 80P(2) of the Income Tax Act in respect of interest income received from various banks and in doing so

a) The Ld.CIT(A) failed to appreciate that the interest income from other banks are attributable to profits and gains of the business of extending credit facilities to Appellant's members.

b) The Ld.CIT(A) failed to appreciate that the business of the Appellant consists entirely of extending credit facilities only to its members and the interest income from various banks arose only on

account of keeping the surplus funds for the time being in anticipation of lending the same to the members as there were no ready borrowers for the said amount.

3. The Ld.CIT(A) failed to appreciate the fact that the Appellant has only ordinary members and no nominal members and during the normal course of its business has only dealt with its own members and not with any nominal members as per the decision of the Honourable Supreme Court in The Citizen Co-operative Society Limited.

4. The Ld.CIT(A) erred in confirming the addition of the commission earned on Pigmy, RTGS, and Demand Draft even though these income were earned while carrying on its business of providing credit facilities to its members which attracts 80P deduction.

5. The Ld.CIT(A) also erred in confirming the addition of the profits of the Insurance commission and E-stamping activity carried on by the Appellant which is less than Rs.50,000/- and ought to have been allowed as per section 80P(2)(c)(ii) of the Act.

6. Without prejudice to Ground no.2 and as an alternate plea the Appellant further submits that in respect of the income earned from the co-operative banks it is entitled for deduction u/s 80P (2) (d) of the Act inasmuch as the co-operative banks are also co-operative societies as per section 2(b1) of Karnataka Co-operative Societies Act, 1959.

For these and such other grounds that may be adduced in time to time, it is requested that the Hon'ble ITAT to cancel the addition made by the Assessing Officer and allow deduction under Section 80P(2) of the Act.”

3. At the very outset it was submitted by Id. AR of assessee that the assessee has filed additional evidence along with application for admission of additional evidence. He submitted that the same should be admitted and matter may be restored back to the file of CIT(A) for fresh decision after considering all evidences. He submitted that in para 4.7 of impugned order of CIT(A), the CIT(A) has followed the latest judgment of Hon'ble Apex Court rendered in the case of The Citizen Co-operative Society Ltd. Vs. ACIT as reported in 397 ITR 1. But the facts of the present case and of that case are not discussed and compared and therefore, the matter should be restored back to the file of CIT(A) for fresh decision. The Id. DR of revenue supported the order of CIT(A).

4. I have considered the rival submissions. I find that after discussing so many judgments, the CIT(A) has ultimately followed the later judgment of Hon'ble Apex Court rendered in the case of The Citizen Co-operative Society Ltd. Vs. ACIT(supra). But there is no discussion or comparison of the facts of the present case and facts of that case and therefore, I feel it proper in the interest of justice to restore the matter back to the file of CIT(A) for fresh decision after discussing and comparing the facts of the present case with the facts of that case. Hence I set aside the order of CIT (A) and restore the matter back to his file for a fresh decision in the light of above discussion after providing adequate opportunity of being heard to both sides.
5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 22nd March, 2018.
/MS/

Copy to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.