

IN THE INCOME TAX APPELLATE TRIBUNAL

“A” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, JUDICIAL MEMBER AND
SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No. 1226/Bang/2017
Assessment Year :2013-14

The Income Tax Officer, Ward – 5 (2) (4), Bangalore.	Vs.	M/s. The Karnataka State Co-operative Agricultural & Rural Development Bank Ltd., P.B. No. 1811, Fort Tippu Sultan Palace Road, Chamarajpet, Bangalore – 560 018. PAN: AAAAT7773N
APPELLANT		RESPONDENT

Appellant by	:	Shri B.R. Ramesh, JCIT (DR)
Respondent by	:	Shri P. Dinesha, Advocate

Date of hearing	:	26.03.2018
Date of Pronouncement	:	06.04.2018

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the revenue which is directed against the order of Id. CIT(A)-5, Bangalore dated 14.02.2017 for Assessment Year 2013-14.

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

“1. The order of the Commissioner of Income Tax(Appeals) - 5, Bangalore, is opposed to the law and not on the facts and circumstances of the case.

2. On the facts and circumstances of the case, whether Ld.CIT(A) is correct in allowing the claim made by the assessee u/s 80P(2)(a)(i).

3. For these and other grounds that may be urged upon, the order of the CIT(A) may be reversed and that assessment order be restored.

4. The appellant craves leave to add, alter, amend or delete any other grounds on or before hearing of the appeal.”

3. It was submitted by Id. DR of revenue that Id. CIT(A) has not considered the later 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 and therefore, the order of CIT(A) should be reversed and that of the AO should be restored. As against this, it was submitted by Id. AR of assessee that the matter may be restored back to the file of AO/CIT(A) to decide the issue afresh after considering this judgment of Hon'ble Apex Court.
4. We have considered the rival submissions and this is true that Id. CIT (A) has not considered the latest judgment of Hon'ble Apex Court rendered in the case of The Citizen Co-operative Society Ltd. Vs. ACIT (supra), in fact, the order of CIT (A) is dated 14.02.2017 and this judgment of Hon'ble Apex Court is dated 08.08.2017 and hence, this judgment was not available on 14.02.2017. Hence we feel it proper that the matter should go back to the file of CIT (A) for fresh decision after considering this judgment of Hon'ble Apex Court. We set aside the order of CIT 9A) and restore the matter back to his file for a fresh decision with the direction that he should examine and compare the facts of the present case and the facts of this case and thereafter, decide the issue afresh and pass necessary order as per law after providing adequate opportunity of being heard to both sides.
5. In the result, the appeal filed by the revenue is allowed for statistical purposes. Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(N.V. VASUDEVAN)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 06th April, 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.