

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No. 2625/Bang/2017
Assessment Year :2014-15

M/s. BBR & RDCC Bank Employees Co-operative Society Ltd., No. 6, Lakshmi Sadana, 5 <sup>th</sup> Main Road, Chamrajpet, Bangalore – 560 018. <b>PAN: AAAAB1346D</b>	Vs.	The Income Tax Officer, Ward – 5 (2) (4), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri Abi Rama Karthikeyan, IRS (DR)

Date of hearing	:	02.05.2018
Date of Pronouncement	:	11.05.2018

**ORDER**

*Per Shri A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the order of Id. CIT(A)-5, Bangalore dated 18.09.2017 for Assessment Year 2014-15.

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

*“1. The order of the authorities below in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*

*2. The authorities below are not justified in disallowing the deduction of Rs.15,21,624/- claimed u/s.80P[2][a][i] of the Act by the appellant under the facts and in the circumstances of the appellant's case.*

*3. The authorities below are failed to appreciate that the appellant is not a Primary co-operative bank within the meaning of the explanation to section 80P [4] of the Act, consequently, the provisions of section 80P [4] of the Act are not applicable to the case of the appellant.*

*4. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies itself liable to be charged to interest u/s*

*234-B of the Act, which under the facts and in the circumstances of the appellant's case deserves to be cancelled.*

*5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered.”*

3. It was submitted by Id. AR of assessee that the Id. CIT(A) has decided the issue against the assessee by following the judgement of Hon'ble Apex Court rendered in the case of The Citizen Co-operative Society Ltd. Vs. ACIT as reported in 397 ITR 1 without comparing the facts of the present case with the facts of that case. He submitted that in the interest of justice, the matter may be restored back to the file of CIT(A) for fresh decision after comparing the facts of the present case with the facts of that case. The Id. DR of revenue supported the order of CIT(A).
4. I have considered the rival submissions. This is settled position of law that any judgement can be followed only if the facts of that case are at least similar if not identical to the facts of the case on hand. In the present case, the CIT(A) has followed the judgement of Hon'ble Apex Court rendered in the case of The Citizen Co-operative Society Ltd. Vs. ACIT (supra) but there is no discussion regarding the comparability of 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 fresh decision by way of a speaking and reasoned order in which he should compare the facts of the present case with the facts of that case and then decide the issue as per law. Needless to say, adequate opportunity of being heard should be provided 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 11<sup>th</sup> May, 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.