

आयकर अपीलीय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

सुश्री सुषमा चावला, न्यायिक सदस्य के समक्ष

BEFORE MS. SUSHMA CHOWLA, JM

आयकर अपील सं. / ITA No.1234/PUN/2018

निर्धारण वर्ष / Assessment Year : 2014-15

Solapur District Co-op. Milk  
Producers Process Union Ltd.,  
24/1, Murarji Peth,  
Solapur – 413001

.... अपीलार्थी/Appellant

PAN: AAUFS9294C

Vs.

The Asst. Commissioner of Income Tax,  
Circle 2, Solapur

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri P.S. Shingte

प्रत्यर्थी की ओर से / Respondent by : Shri M.K. Verma

सुनवाई की तारीख / Date of Hearing : 16.01.2019	घोषणा की तारीख / Date of Pronouncement: 25.01.2019
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against the order of CIT(A)-7, Pune, dated 09.04.2018 relating to assessment year 2014-15 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

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

1. *On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in dismissing the appeal ex-parte, without giving proper opportunity of hearing, the act being in violation of principle of natural justice, it is prayed that appeal may kindly be restored back for reconsideration by Learned CIT(A).*

*Without prejudice to above ground following ground is taken on merit;*

2. *On the facts and in the circumstances of the case and in law the Learned Assessing Officer has erred in disallowing proportion interest expense plus Rs.481.47 lacs, by disregarding appellant's contention in this regard. Action being arbitrary and perverse, therefore needs to be reversed.*
3. *On the facts and in the circumstances of the case and in law the Learned Assessing Officer has erred in restricting the deduction claimed u/s 80P(2)(d) to the extent of Rs.186.40 lacs thereby arriving the income at Rs.16,78,630.*

*Your appellant prays for allowance of total deduction u/s 80P(2)(d) and restore the income as returned by the appellant.*

3. The learned Authorized Representative for the assessee pointed out that the appeal was decided *ex-parte* without giving proper opportunity of hearing by the CIT(A) and hence, the first ground of appeal. He fairly admitted that the assessee did not appear on the last date of hearing but a fair opportunity should have been allowed to the assessee. He also pointed out that the issue raised in the present appeal is squarely covered by the orders of Tribunal i.e. interest income arising from Co-operative societies.

4. The perusal of appellate order reflects that the appeal was fixed for hearing on four dates of hearing and the assessee sought adjournment on two of the dates and on the balance dates, none appeared on behalf of assessee. Hence, there was non representation before the CIT(A).

5. In the totality of the above said facts and circumstances and following the principles of natural justice, where the assessee claims that the issue

stands covered in favour of assessee, it is deemed fit to restore the issue back to the file of CIT(A), who shall afford reasonable opportunity of hearing to the assessee and decide the appeal in accordance with law. The grounds of appeal raised by assessee are thus, allowed for statistical purposes.

6. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced on this 25<sup>th</sup> day of January, 2019.

**Sd/-**  
**(SUSHMA CHOWLA)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 25<sup>th</sup> January, 2019.

*GCVSR*

**आदेश की प्रतिलिपि अद्येषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-7, Pune;
4. The Pr.CIT-6, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य  
मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

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