

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-A” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No.2844/Bang/2018
Assessment Year : 2015-16

M/s. Krishna Co-operative Credit Society Ltd., Near Bus Stand, Bilagi, Post: Bilagi, Dist: Bagalkot. PAN: AABAK4315N	vs.	The Income Tax Officer, Ward – I, Bagalkot.
APPELLANT		RESPONDENT
Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Dr. Nischal .B, Addl. CIT (DR)
Date of hearing	:	20.02.2019
Date of Pronouncement	:	22.02.2019

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), Belagavi dated 16.07.2018 for Assessment Year 2015-16.

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

“01. The order of the CIT (Appeals) is bad and erroneous in law and against the facts of the case.

02. The learned CIT (Appeals) erred in upholding AO's order the Proporniate Interest Income earned on Investments Rs.6,40,051/-as Income, 85 not treating the same as Income from Business 86 denying the deduction u/s 80P(2)(a)(i) as claimed.Jurisdictional High Court of Karnataka in the case of Guttigedarar Credit Coop Society Ltd., Vs. ITO, Ward 2(2), Mysore in ITA No.29/2015 on 9th June 2015 (60 taxmann.com 215) that where interest income earned by assessee society by providing credit facilities to its members was deposited in banks, or to non members which had earned interest, said interest on deposits was attributable to business of banking of assessee and it was liable to deduction under section 80P(2)(a)(i). Relying on the same Judgement Honourable ITAT "A" Bench Ahmedabad in the case of Mahidharpura Urban Coop Credit Society Ltd., Vs. DCIT, Cir 2(3), Surat in ITA No.3312/Ahd/2015 on 16th March 2016 held the decision in favour of the assessee on similar issue. The same issue is decided in favour of appellant by Hon'ble Jurisdictional ITAT Bangalore Bench "C" Bangalore(SMC) vide ITA No.519(Bang) 2017 for AY: 2013-14 dated 04.08.2017.

03. Each of the above grounds is without prejudice to one another and

the appellant craves leave of the Members of Hon'ble Income Tax Appellate Tribunal, to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal."

3. At the very outset, it was submitted by Id. AR of assessee that the impugned order of CIT (A) is ex-parte qua the assessee. He further submitted that although in Para 4 of his order, the Id. CIT(A) has stated that the appeal was posed for hearing on various dates but he has given only one date i.e. 12.07.2018 in this para and also on the first page of his order in Para no. 7. He submitted that under these facts, it should be accepted that sufficient opportunities of being heard was not provided by CIT (A). The Id. DR of revenue submitted that sufficient opportunity was provided by CIT(A).

4. I have considered the rival submissions. I reproduce Para no. 4 from the order of CIT (A). This reads as under.

"4. The appeal was posted for hearing on various dates 12/07/2018. In response to above notice issued by this office no body had attended the hearing. Now the case has been decided on merits as well as facts available on records."

5. From the above Para reproduced from the order of CIT (A), it is seen that although it is stated in this para that appeal is posted for hearing on various dates but the date noted by him is only one i.e. 12.07.2018. On page no. 1 of his order also, in Para no. 7, he has noted that the date of hearing is 12.07.2018. Hence, in my considered opinion, sufficient opportunity of hearing was not provided by CIT (A) and therefore, I feel it proper to restore the matter back to the file of CIT (A) for fresh decision after providing adequate opportunity of being heard to both sides. I order accordingly. In view of this decision, no adjudication on merit is called for at the present stage.

6. In the result, the appeal filed by the assessee stands 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 February, 2019.
/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT

4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.