

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ "एक सदस्य" पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE MS. SUSHMA CHOWLA, JM AND  
SHRI ANIL CHATURVEDI, AM

आयकर अपील सं / ITA No.1441/PUN/2018

निर्धारण वर्ष / Assessment Year : 2011-12

Shri Shivaji Natha Gaikwad,  
Plot No.3, 209AS, Karande Mala,  
Behind Shahu College,  
Kolhapur.

..... अपीलार्थी /  
Appellant

PAN : AAVPG6465G.

बनाम v/s

The Income Tax Officer,  
Ward 2(1), Kolhapur.

..... प्रत्यर्थी /  
Respondent

Assessee by : Shri Pramod Shingte  
(Adjournment refused).

Revenue by : Shri M.K. Verma.

सुनवाई की तारीख / Date of Hearing : 07.03.2019	घोषणा की तारीख / Date of Pronouncement: 18.04.2019
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आदेश / ORDER

**PER ANIL CHATURVEDI, AM :**

1. This appeal filed by the assessee is emanating out of the order of Commissioner of Income Tax (A) – 2, Kolhapur dated 01.06.2018 for the assessment year 2011-12.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is an individual who is having income from salary and other sources. Assessee filed his return of income for A.Y. 2011-12 on 01.08.2011 declaring total income at Rs.7,92,740/-. The case was selected for scrutiny

and thereafter assessment was framed u/s 143(3) of the Act vide order dt.03.07.2013 and the total income was determined at Rs.9,09,550/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dt.01.06.2018 (in appeal No.Kop/343/2013-14) granted partial relief to the assessee. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal before us and has raised the following effective ground :

*“On facts and in circumstances of the case the Learned CIT(A) has erred in law and on merit in confirming addition of Rs.41,043/- in account of disallowance of repayment of Housing Loan installment paid to BSNL Co-operative Credit Society when such claim was allowable u/s 80C(xviii)(b) of the Income Tax Act.”*

3. On the date of hearing, adjournment application was filed by the Ld.A.R. seeking adjournment in the case. The adjournment was refused in view of the issue involved in the present appeal. We therefore proceed to decide the appeal ex-parte qua the assessee.

4. The case file reveals that there is delay of 2 days in filing the appeal. Considering the smallness of delay, we condone the delay and admit the appeal for hearing.

5. During the course of assessment proceedings, AO noticed that assessee had claimed Rs.41,053/- as principal amount paid to BSNL Employees Coop Credit Society for the loan taken for construction of house. AO sought information from BSNL Employees Coop Credit Society wherein the Society stated that it cannot vouch the end use of loan taken by any member since it has given loan against salary. Therefore, AO concluded that assessee has not taken loan from purchase of house property and hence, the principal amount claimed u/s 80C of the Act was disallowed by him.

Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who upheld the order of AO. Aggrieved by the order of Ld.CIT(A), assessee is now before us.

6. Before us, Ld. D.R. supported the order of lower authorities.

7. We have heard the Ld.D.R. and perused the material on record. The issue in the present case is with respect to disallowance of Rs.41,053/- on account of deduction u/s 80C of the Act. We find that before Ld.CIT(A), it was assessee's submission that he had obtained housing loan from BSNL Employees Coop Credit Society for construction of house and for which during the year there was re-payment of interest and principal amount. It was further assessee's submission that the certificate issued by BSNL was submitted wherein it was stated that the loan was advanced for the purpose of construction of house. It was further submitted by the assessee that the loan application by the assessee also states the purpose to be 'loan for the purpose of construction of house'. Assessee submitted that the sanction letter dated 24.06.2013 issued by BSNL Employees Coop Credit Society also states that the loan was utilized for construction of house. However, AO made the addition considering the fact that assessee had not utilized the amount for construction of house. We find the copy of letter of BSNL Karmachari Sakahari Pat Sanstha Maryadit, Kolhapur dated 24.06.2013 attached with assessment order, which states that the Society does not vouch the end of use of the loan taken by the member. We find that based on the aforesaid letter, AO had concluded that the loan has not been used for construction of house by the assessee. We find that AO has only disallowed the principal re-payment but has allowed the interest component under

income from house property. Before us, no material has been placed by Revenue to controvert the submissions made by the assessee about obtaining the loan for construction of house which is also certified by BSNL. Considering the totality of the facts, we are of the view that AO was not justified in denying the claim of deduction u/s 80C of the Act on the principal repayment towards housing loan and therefore we direct the deduction. **Thus, the ground of assessee is allowed.**

**8. In the result, the appeal of assessee is allowed.**

Order pronounced on 18<sup>th</sup> day of April, 2019.

**Sd/-**  
**(SUSHMA CHOWLA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ANIL CHATURVEDI)**  
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 18<sup>th</sup> April, 2019.

Yamini

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

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

**आदेशानुसार/ BY ORDER**

// True Copy //

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