

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1845/PUN/2016
निर्धारण वर्ष / Assessment Year : 2010-11

Vidharbha Konkan Gramin Bank (successor to Wainganga Krishna Gramin Bank), Chandraprastha, 2 nd & 3 rd Floor, Plot No.6, Deendayal Nagar, Ring Road, Nagpur – 440 022 PAN : AAAAW1419N	Vs.	ACIT, Circle-2, Solapur
Appellant		Respondent

Assessee by Shri C. Naresh
Revenue by Shri Ajay Dhoke

Date of hearing 12-12-2019
Date of pronouncement 13-12-2019

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-7, Pune on 01-04-2016 in relation to the assessment year 2010-11.

2. The appeal is time barred by 22 days. The assessee has filed a petition for condonation of delay accompanied by the affidavit giving reasons for the delay in presentation of the appeal before the

Tribunal. We are satisfied with such reasons and accordingly admit the appeal for hearing.

3. Briefly stated, the facts of the case are that the assessee filed its return declaring Nil income. The assessment was completed u/s.143(3) of the Income-tax Act, 1961 (hereinafter called 'the Act') at Nil income. Thereafter, an order u/s.154 came to be passed by the AO determining total income at Rs.4,48,96,295/-. The assessee filed appeal against the order u/s.154 of the Act but remained unsuccessful before the Id. CIT(A). This is how, the assessee has come up in appeal before the Tribunal.

4. The assessee has raised an additional ground, which reads as under :

“The Appellant being a Regional Rural Bank and being deemed to be a cooperative society for the purpose of Income-tax Act as per section 22 of Regional Rural Bank Act and the overriding provision as per section 32 of Rural Bank Act, is entitled to benefit of deduction u/s.80P(2)(a)(i) of the Income-tax Act as held by Hon’ble ITAT Allahabad in the case of Baroda Uttar Pradesh Gramin Bank (ITA 403 to 405/Alld/2014 and accordingly deduction under the said section should be allowed in computing the total income.”

5. Since this ground involves a pure question of law and does not require any fresh adjudication on facts, we, therefore, admit the

same in the hue of the judgment of Hon'ble Supreme Court in *National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC)*.

6. Through the additional ground, the assessee is urging that it being a Regional Rural bank is entitled to deduction u/s.80P(2)(a)(i) of the Act, which was neither claimed in the return nor allowed in the assessment. It was thus requested that the benefit of the same should be conferred on the assessee. The ld AR contended that if the benefit of deduction u/s.80P is given, then most of the issues in the appeal would become academic.

7. We have heard the rival submissions and gone through the relevant material on record. It is seen that the additional ground has been raised before the Tribunal for the first time claiming the benefit of section u/s.80P of the Act on the ground of its eligibility. Since the eligibility of the assessee for the benefit u/s.80P of the Act has not been examined by the AO, in our considered opinion, the ends of justice would meet adequately if the impugned order is set-aside and the matter is restored to the file of AO. We order accordingly and direct him to examine the claim of the assessee for

entitlement to deduction u/s.80P(2) of the Act as per law after allowing a reasonable opportunity of hearing to the assessee.

8. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 13th December, 2019.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 13th December, 2019
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-7, Pune
4. The CIT-6, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे
“बी” / DR ‘B’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	12-12-2019	Sr.PS
2.	Draft placed before author	12-12-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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