

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT  
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1148/AHD/2018  
(Assessment Year: 2013-14)**

<b>M/s. Sardarpura Dudh Utpadak Sahakari Mandali Ltd. At Sardarpura, PO, Kunjrao, Tal-Umreth-388335</b>	<b>V/S</b>	<b>Income Tax Officer, Ward- 2, Anand</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: AAALS0459B**

**Appellant by : None  
Respondent by : Shri N.K. Goyal, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 18 -02-2020

Date of Pronouncement : 20 -02-2020

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal has been filed by the Assessee is directed against the order of the Ld. CIT(A)-4, Vadodara dated 07.09.2017 pertaining to A.Y. 2013-14 and following grounds have been taken:

- 1. The Learned Commissioner of Income Tax (Appeals) has erred in confirming the disallowance of Rs.4,86,85/7- made by the Assessing Officer out of expenses debited to Profit & loss account*
  - 2. The Learned Commissioner of Income Tax (Appeals) has erred in erred in confirming the disallowance of deduction claimed by the Appellant u/s.80P(2)(b) of the I.T. Act, 1961.*
  - 3. The Appellant prays that the delay in filing of appeal may kindly be condoned.*
  - 4. The Appellant craves leave to add, alter, amend or modify any of the grounds of appeal on or before the date of hearing of appeal.*
2. Facts of the case are that assessee is in the business of trading in milk and Dairy Products and status of the assessee is a Co-op. Society. The case was selected for scrutiny through CASS. And notice u/s. 143(2) and 142(1) were issued to the assessee but none appeared. Since, there was no cooperation from the assessee in the absence of that Id. A.O. disallowed the expenditure of Res. 4,86,856/- and made addition and passed an ex parte order.
  3. Against the said order, assessee preferred first statutory appeal before the Id. CIT(A) who dismissed the appeal of the assessee holding that appellant is not primary society but is a federal society engaged in the business of supply of milk of its member societies to the Government Milk Scheme, Amul.
  4. Now assessee has come before us by way of second statutory appeal.
  5. We have gone through the relevant record and impugned order. None appeared on behalf of the assessee and Id. D.R. relied on the orders of the lower authorities.
  6. In the matter of Shree Chalthan Vibhag Khand Udyog Mandli Ltd. vs. DCIT Hon'ble Gujarat High Court has held matter in favour of the assessee with the following observation:

*“The assessee-societies are federal milk societies and its members are primary milk co-operative societies and the business of the assesses is to purchase milk from its members and other producers of milk at the rate, i.e., similar to both the members and outside milk producers and sell the milk to various parties. Individual producers supply milk to the primary milk cooperative milk societies. The learned Assessing Officer refused to exclude the final rate difference paid from the total amount paid by the respondents on the ground that: it was not linked to the quality of the milk like fat content or source of milk, quality of milk, period of milk procurement. The transactions which were recorded and noted during the course of survey shows that the final milk rate difference was paid after accrual of net profit and payment of final milk rate difference was not included in the total per litre production of cost of milk. Our attention is drawn to the fact that the Commissioner of Income-tax has recorded a finding that in some cases the assesses paid commercial purchase price by even excluding the amount of final rate difference to milk producers as compared by the purchase price of milk to the Government and some other co-operative societies.”*

7. Respectfully following the above said Hon’ble High Court’s judgment, we allow the appeal of the assessee.

8. In the result, appeal filed by the Assessee is allowed.

Order pronounced in Open Court on	20- 02- 2020
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Sd/-

**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER True Copy**  
Ahmedabad: Dated 20 /02/2020

Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad