

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI**

**BEFORE SHRI SHAMIM YAHYA, AM**

ITA No.1992/Mum/2019  
(Assessment Year: 2013-14)

Ramtanu Nagari Sahakari Pathpedi Ltd. Shop No.2, Sai Vihar Building, Sector-24, Turbhe, Navi Mumbai-400 705	Vs.	Income Tax Officer 28(2)(5), Mumbai
PAN/GIR No. AAAAR 4466 L		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	None
<b>Respondent by</b>	:	Shri Somnath Wajale
<b>Date of Hearing</b>	:	06.10.2020
<b>Date of Pronouncement</b>	:	08.10.2020

**ORDER**

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-26, Mumbai (‘Id.CIT(A) for short) dated 31.12.2018, pertaining to the assessment year (A.Y.) 2013-14, wherein after noting that the assessee has not responded to the notices for hearing and the Id. CIT(A) has dismissed the assessee’s appeal.

2. The grounds raised by the assessee read as under:

1. The learned Commissioner of Income Tax (Appeals) erred in upholding the addition of Rs.50,000/- in respect of provision towards NPA fund.
2. The learned Commissioner of Income Tax (Appeals) erred in disallowing the claim of deduction under section 80P of the Income Tax Act, 1961.

3. Brief facts of the case are that the assessee is a corporative credit society. During the course of assessment proceedings the Assessing Officer (A.O. for short) was of the opinion that sub section (4) of section 80P is attracted and accordingly *inter alia* denied the assessee's claim for deduction u/s.80P of the Act. The A.O. did not deal with the case law referred by the Id. Counsel of the assessee.

4. Upon the assessee's appeal, the Id. CIT(A) dismissed the assessee's appeal by cryptically observing as under:

6. During the course of appellate proceedings, the appellant has not complied to any of the notices as stated above nor any submissions were made. Hence, it can be inferred that the assessee has nothing to say in support of the grounds of appeal. Therefore, there is no to deviate from the order of the A.O. Hence, the addition made by the Assessing Officer during the course of assessment proceedings for A.Y. 2013-14 is confirmed. The appellant's grounds of appeal are dismissed.

5. Against this order, the assessee is in appeal before the ITAT.

6. I have heard the Id. Departmental Representative (Id. DR for short) and perused the material available on record. I find that the Id. CIT(A) has basically dismissed the assessee's appeal for non-prosecution and he has not decided upon the merits of the case. Moreover, the issue whether section 80P, sub section (4) is attracted in the case of co-operative credit society is already been dealt with by several decisions of the Hon'ble High Courts.

7. In this view of the matter, in my considered opinion, the interest of justice will be served the issue is remitted to the file of the Id. CIT(A). The Id. CIT(A) is directed to adjudicate upon the merits of the issues in appeal after giving the assessee a proper opportunity of being heard and thereafter he shall pass a speaking order.

8. In the result, this appeal filed by the assessee stands allowed for statistical purposes.

*Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board on 08.10.2020.*

Sd/-  
(Shamim Yahya)  
Accountant Member

Mumbai; Dated : 08.10.2020  
Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai