

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2678/PUN/2016

निर्धारण वर्ष / Assessment Year : 2010-11

Prathamik Shikshak Sahakari Bank Ltd.,
1031/C-2, E-Ward,
Gavat Mandal, Shahupuri,
Kolhapur – 416001

PAN : AAAAT0946M

.....अपीलार्थी / Appellant

बनाम / V/s.

Assistant Commissioner of Income Tax,
Circle – 2, Kolhapur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri Vitthal Bhosale

सुनवाई की तारीख / Date of Hearing : 05-08-2021

घोषणा की तारीख / Date of Pronouncement : 06-08-2021

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 06-10-2016 passed by the Commissioner of Income Tax (Appeals)-2, Kolhapur [‘CIT(A)'] for assessment year 2010-11.

2. The assessee has raised the following additional ground.

“On the facts and in the circumstances of the case and in law, the lower authorities have erred in not allowing the set off of brought forward losses for the sum of Rs.42,20,038/-, especially in view of the fact that appellant society has filed the declaration under Direct Tax Vivad Se Vishwas Act, 2020 for Assessment Year 2008-09, and accepted the assessed income and paid taxes thereon and therefore as provisions of Section 9(1) and (2) of DTVSV Act, 2020 and as per answer to Q. No. 53 from FAQ issued in this respect, your appellant is entitled to claim the same, your appellant prays accordingly.”

3. This being a legal ground, going to the root of the matter and not requiring any fresh factual examination, is admitted for hearing and disposal.

4. In the year under consideration i.e. A.Y. 2010-11, the assessee claimed allowance of set off of brought forward losses to an extent of Rs.1,84,14,284/-. The AO restricted the amount of set off to Rs.42,20,038/-. The ld. AR submits that the lower authorities below did not give the proper set off of brought forward losses. He submits that the said losses were carried forward from the earlier years including A.Y. 2008-09, in which it availed Vivad Se Vishwas Scheme and paid taxes on the assessed income. The ld. AR argued that the assessee availed the option under clause (i) of sub-section (1) of section 9 of Direct Tax Vivad Se Vishwas Scheme Act, 2020. In view of the fact that the assessee has availed the option as stated above and claimed to have paid tax on the amount of income without adjustment of brought forward loss, such loss would become entitled for set off in the subsequent years including year under consideration. The AO is directed to verify the factual scenario in this regard and allow proper set off of the brought forward loss against the

income for the current year after allowing opportunity of hearing to the assessee. No other ground was pressed by the ld. AR.

5. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 06th August, 2021.

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

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 06th August, 2021.

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Kolhapur
4. The Pr. CIT-II, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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