

आयकर अपीलिय अधिकरण
मुंबई पीठ "स.एम.सी" मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री गगन गोयल, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
आअसं. 3362/मुं/2019 (नि. व. 2013-14)
ITA No. 3362/MUM/2019 (A.Y.2013-14)

The Mumbai District Co-operative
Housing Federation Ltd.,
103, Vikas Premises, 1st Floor,
11, G.N. Vaidya Marg,
Fort, Mumbai-400001.

PAN: AAAAT4408Q

..... अपीलार्थी / Appellant

बनाम Vs.

ITO-17(2)(4),
123B, Aayakar Bhavan,
M.K. Road, Churchgate,
Mumbai-400020.

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Mandar Vaidya with
Sh. Kalpesh Turalkar
प्रतिवादी द्वारा/ Respondent by : Sh. T. Shankar, Sr. DR
सुनवाई की तिथि/ Date of hearing : 03/02/2022
घोषणा की तिथि/ Date of pronouncement : 03/02/2022

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-28, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 19.03.2019 for the Assessment Year (AY) 2013-14.

2. Sh. Mandar Vaidya with Sh. Kalpesh Turalkar appearing on behalf of the assessee submitted that the solitary addition assailed in the present appeal is in respect of income from Advertisement Rs. 6,81,697/-. The Id. Counsel for the assessee submitted that the assessee is a Co-operative Housing Society. The assessee earned gross total income of Rs. 45,97,960/- and claimed deduction of the aforesaid income u/s 80P(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') based on the principles of mutuality. The Assessing Officer (AO) rejected assessee's claim qua income from advertisement and held the aforesaid income as 'Income from Business'. The AO while computing income under the head 'Business Income', allowed direct expenditure in relation to earning of income from advertisement and made addition of Rs. 6,81,693/-. The assessee claimed that there were some indirect expenditure as well for earning of advertisement income that were not allowed by the AO. The assessee carried the issue in appeal before the CIT(A). The CIT(A) also rejected the claim of assessee. The Id. counsel referred to the table at page no.3 of the assessment order wherein the assessee had claimed proportionate indirect expenditure against the income from advertisement. The Id. Counsel for the assessee submitted that the issue can be referred back to the file of AO for fresh examination. The assessee would furnish fresh calculations for claiming proportionate indirect expenditure with justifications.

3. Sh. T. Shankar representing the Department vehemently defended the impugned order. The Id. Departmental Representative (DR) submitted that the working of allocation of indirect expenditure was considered by the AO and the same has already been rejected. No useful purpose would be served by restoring the issue back to the file of AO.

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. The short issue in the present appeal is with regard to the assessee's claim of indirect expenditure in earning of advertisement expenses. The Id. Counsel of the assessee has submitted that the issue can be restored back to the file of AO, the assessee would furnish fresh calculations and the basis of allocation of indirect expenditure. Without commenting on the merits of the issue and allowability or otherwise of the indirect expenditure, the issue is restored back to the file of AO to examine working already filed or revised working, if any filed by the assessee along with the basis of allocation of indirect expenditure in earning income from advertisement. Needless to say that the AO shall grant reasonable opportunity of hearing to the assessee before deciding this issue afresh, in accordance with law.

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

Order pronounced in the open court on **Thursday**, the **3rd** day of February, 2022.

Sd/-

(GAGAN GOYAL)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/Mumbai, दिनांक/Dated: 03/02/2022

S.K., Sr. PS

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai