

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, AHMEDABAD**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR**  
**& SHRI WASEEM AHMED, ACCOUNTANT MEMEBR**

आयकर अपील सं./I.T.A. No. 261/Ahd/2021  
(निर्धारण वर्ष / Assessment Year : 2015-16)

<b>Malataj Co-Operative Credit Society Limited</b> Sardar Patel Bhavan, Nr. Tower, At. Malataj, Ta: Sojitra, Malataj-387220	<b>बनाम/</b> Vs.	<b>Income Tax Officer</b> Ward-1(3)(1), Petlad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAM6968J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Ms. Arti N. Shah, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Mod. Usman, CIT.D.R. & Shri Purshottam Kumar, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	05/05/2022
घोषणा की तारीख /Date of Pronouncement	23/05/2022

**ORDER**

**PER MAHAVIR PRASAD, JM:**

The appeal has been preferred by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('CIT(A)' in short) vide Appeal No. CIT(A), Vadodara-1/10413/2018-19 dated 15.09.2021 arising in the penalty order dated 12.02.2019 passed by the Assessing Officer (AO) under s. 271(1)(c) of the Income Tax Act, 1961 (the Act) concerning AY. 2015-16.

2. The ground of appeal raised by assessee reads as under:

“1. *The Learned Commissioner of Income Tax (Appeals) has erred in law and on facts of the case by confirming penalty of Rs.2,00,450/- levied by the learned Assessing Officer u/s. 271(1)(c) of the I.T. Act, 1961.*

2,00,450/-

2. *Your Appellant, therefore, prays to delete the penalty of Rs.2,00,450/- levied u/s. 271(1)(c) of the I.T. Act, 1961 by the learned Assessing Officer.*

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3. *Your Appellant prays to reserve the right to add, alter, amend and/or withdraw any of the above grounds of appeal.*

*Total Tax Effect*

2,00,450/-“

3. The brief facts of the case are that return of income declaring taxable income at Rs.Nil filed on 08.02.2016 after claiming deduction 80P(2)(a) of the Act of Rs.15,84,525/-. After verification, AO disallowed the claim to the extent of Rs.6,58,707/- and made addition on which penalty imposed.

4. The concealment notice of Section 274 of the Act was issued on 16.01.2019. The explanation letter dated 29.01.2019 was prepared for submission. Thereafter, the AO was on leave and the Clerk not accepted the submission upon telephone talk. Without considering the submission, AO passed the order.

5. Thereafter, assessee preferred first statutory appeal before the learned CIT(A). Before learned CIT(A), it was contended by the assessee that matter was decided ex parte by the learned AO and even before the learned CIT(A), assessee could not file his submission. Therefore, in such facts and circumstances, we set aside this matter back to the file of the learned AO subject to the condition that a penalty of Rs.1000/- shall be imposed on the assessee as it has wasted precious time of the Revenue

authority and did not file any relevant details in support of its case and same to be deposited with the department within 60 days from the receipt of this order. Thereafter, the AO shall decide the matter after giving an opportunity of being heard to the assessee and pass the order as per law.

6. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

**This Order pronounced in Open Court on 23/05/2022**

Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER  
Ahmedabad: Dated 23/05/2022

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER

*True Copy*

*S.K.SINHA*

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।