

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER AND  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No.121/M/2022**

**Assessment Year: 2016-17**

|  |     |  |
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| M/s. Vijay Co-operative<br>Credit Society Ltd.,<br>Dwarkadas Mension,<br>Bhaji Market,<br>D.D. Sathe Marg,<br>Prathna Samaj,<br>Mumbai – 400 004<br><b>PAN: AAAAV5414E</b> | Vs. | The Assessing Officer-<br>2(3)(1),<br>The Income Tax Officer,<br>Ward-19(3)(5),<br>Matru Mandir,<br>Tardeo Road,<br>Mumbai – 400 007 |
| (Appellant)  |     | (Respondent)   |

**Present for:**

Assessee by : Shri Sanjay Parikh, A.R.  
Revenue by : Shri Kiran P. Unavekar, D.R.

Date of Hearing : 30.05.2022  
Date of Pronouncement : 30.05.2022

**O R D E R**

**Per Kuldip Singh, Judicial Member:**

Appellant M/s. Vijay Co-operative Credit Society Ltd. (hereinafter referred to as ‘assessee’) by filing present appeal sought to set aside the impugned order passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) on the grounds inter alia that:

“A) *Principles of Natural Justice Violated*

1) *The learned Commissioner of Income Tax (Appeal Unit) - 18, New Delhi [CIT(A)] erred on facts and in law in not giving a reasonable and sufficient opportunity of being heard before passed the order u/s. 250.*

2) *The learned CIT(A) failed to appreciate that the appellant was prevented by a reasonable and sufficient cause from furnishing the details and explanations before him.*

3) *As the learned CIT(A) has not given a reasonable and sufficient opportunity of being heard and as the appellant was prevented by a reasonable and sufficient cause from furnishing the details and explanations, the appellant prays that the order of the learned CIT(A) may be set aside and the learned CIT(A) may be directed for pass a fresh order after giving opportunity to the appellant of being heard.*

**B) Without prejudice, not passing a speaking order**

4) *Without prejudice to the above, the learned CIT(A) erred on facts and in law in disposing off the appellant's appeal without passing a speaking order.*

5) *The appellant prays that the order passed by the CIT(A) may be set aside and the CIT(A) may be directed to pass a speaking order.*

**C) Without prejudice, not allowing deduction u/s. 80P(2Ha)(i) - Rs.13,49,680/-**

6) *Without prejudice to the above, the learned CIT(A) erred on facts and in law in not allowing deduction u/s. 80P(2)(a)(i) of Rs.13,49,680/- without appreciating that the decisions and case laws relied by the AO were considered in subsequent decisions of hon'ble High Courts and also decisions of the hon'ble Tribunals and the appellant was entitled to deduction u/s. 80P(2)(a)(i).*

7) *The appellant prays that the AO may be directed to allow deduction u/s. 80P(2)(a)(i) of Rs.13,49,680/-.*

**D) General**

8) *The above grounds of appeal are without prejudice to one another and the appellant craves leave to add, alter, amend, delete or modify any of the above grounds of appeal."*

2. Briefly stated facts necessary for adjudication of the controversy at hand are : assessee is a cooperative credit society engaged in the business of providing credit financial assistance to its members only and its primary source of income is interest earned/receipt on providing credit/financial assistance to its members only. The assessee filed its return declaring nil income. On failure of the assessee to comply with the notices issued to its tax consultant Assessing Officer (AO) proceeded to frame the assessment under section 143(3) of the Income Tax Act, 1961 (for

short 'the Act') by denying deductions of Rs.13,49,680/- claimed under section 80P(2)(a)(i) of the Act.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has upheld the assessment order by dismissing the appeal. Feeling aggrieved the assessee has come up before the Tribunal by way of filing present appeal.

4. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

5. At the very outset, it is brought to the notice of the Bench that the Ld. CIT(A) has decided the present appeal ex-parte and no notice has ever been received by the assessee. We have perused the impugned order passed by the Ld. CIT(A) who has issued two notices dated 07.09.2021 and 06.10.2021, but it has not been brought on record if the same were served upon him. Moreover, Ld. CIT(A) has not decided this appeal on merit.

6. So in these circumstances, this Bench has no option except to remit the case back to the Ld. CIT(A) to decide afresh after providing adequate opportunity of being heard to the assessee. Consequently, appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 30.05.2022.**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**  
Mumbai, Dated: 30.05.2022.

**Sd/-**  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.