

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Shri George George K, JM & Shri Laxmi Prasad Sahu, AM

ITA No.488/Bang/2021 : Asst.Year 2015-2016

M/s.Cherembane VSS Bank Ltd. Madikeri Road, Cherembane Kodugu - 571 201 PAN : AAABC0160B.	v.	The Principal Commissioner of Income-tax, Mysore.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Dr.Manjunath Karkihalli, CIT-DR

Date of Hearing : 12.07.2022	Date of Pronouncement : 13.07.2022
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ORDER

Per George George K, JM :

This appeal at the instance of the assessee is directed against Principal Commissioner of Income-tax's (PCIT) order dated 06.03.2020. The relevant assessment year is 2015-2016.

2. The assessee in its grounds of appeal has challenged the revisionary order passed u/s 263 of the I.T.Act as bad in law and also on merits as regards the denial of claim of deduction u/s 80P(2) of the I.T.Act.

3. The Registry has noted a delay of 502 days in filing this appeal. The assessee has filed a petition for condonation of delay also an affidavit of the Chief Executive Officer, stating therein the reasons for belated filing of the appeal. The reason stated is that due to Covid-19 Pandemic, there was lock down

in the country and the appeal papers could not be complied in time within the period of limitation.

3.1 The learned Departmental Representative was duly heard.

3.2 We find that the order of the PCIT u/s 263 of the I.T.Act dated 06.03.2020 is admittedly received by the assessee on 10.03.2020 and the appeal ought to have been filed on or before 10.05.2020. The appeal has been filed only on 27.09.2021. The Hon'ble Apex Court in Cognizance For Extension of Limitation (in Miscellaneous Application No.21 of 2022 dated 10.01.2022), due to the pandemic situation had excluded the period from 15.03.2020 to 28.02.2022 in computing the period of limitation for any suit, appeal, application or proceedings. Further, as per the judgment of the Hon'ble Apex Court, notwithstanding the actual balance period of limitation, all persons shall have a limitation period of 90 days from 01.03.2022. Further, the Hon'ble Supreme Court held that in the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that larger period shall apply. In this case, the appeal has been filed before the ITAT on 27.09.2021 (i.e. well within the period of limitation contemplated by the Hon'ble Apex Court). Therefore, in view of the above judgment of the Hon'ble Apex Court, there is no delay in filing this appeal and we proceed to dispose of the same on merits.

4. None was present on behalf of the assessee. However, the assessee has filed a brief written submission stating therein the Tribunal on identical facts in the case of M/s.Kakkabe VSSN Bank Limited v. PCIT in ITA No.490/Bang/2021 (order dated 28.02.2022) had restored the matter to the A.O. *de hors* the observations of the PCIT in the revisionary order passed u/s 263 of the I.T.Act.

5. The learned Departmental Representative was duly heard.

6. We have heard the learned DR and perused the material on record. The Tribunal on identical facts in the case of M/s.Kakkabe VSSN Bank Limited v. PCIT (supra) had restored the matter to the files of the A.O. The Tribunal directed the A.O. to redo the assessment, *de hors* the observations of the PCIT. The Tribunal directed the A.O. to revisit the matter afresh and follow the principle laid down by the Hon'ble Apex Court in the case of *Mavilayi Service Co-operative Bank Ltd. & Ors. v. CIT & Anr. reported in (2021) 431 ITR 1 (SC)*. The relevant finding of the Tribunal in the case of M/s.Kakkabe VSSN Bank Limited v. PCIT (supra), reads as follows:-

“6. We note that though prima facie, the issues needs to be revisited by the Ld.AO, however, the directions of the Ld.Pr.CIT to make addition in respect of the provision for gratuity as well as expressing the intention of disallowing certain income while computing 80P(2)(e) as well as (a)(i) is not in accordance with law. We also refer that Hon'ble Supreme Court in the case of Mavilayi Service Cooperative

Bank Ltd. Vs.CIT (2021) reported in 123 taxmann.com 161 (SC) considered the issue relating to interest income earned and has distinguished the decisions of Hon'ble Karnataka High Court in case of Tumkur Merchants Souharda Credit Co-operative Society Ltd. vs. ITO (supra). In view of the above, we modify the directions of Ld.Pr.CIT by directing the Ld.AO to carry out de novo verification on the issues considered by the Ld.Pr.CIT in the impugned order having regard to the principle laid down by Hon'ble Supreme Court in case of Mavilayi Service Cooperative Bank Ltd. Vs.CIT (supra). The assessee is directed to file all requisite details in support of the claim which would be verified by the Ld.AO in accordance with law. Needless to say that proper opportunity of being heard to be granted to assessee in accordance with law."

7. In view of the above order of the Tribunal, we direct the A.O. to carry out *de novo* verification of the issues considered by the PCIT in the impugned order. The A.O. shall follow the dictum laid down by the Hon'ble Apex Court in the case of *Mavilayi Service Co-operative Bank Ltd. & Ors. v. CIT & Anr. (supra)*.

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

Order pronounced on this 13th day of July, 2022.

Sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 13th July, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The PCIT, Mysore.
4. The CCIT-1 , Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore