

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER) &
SMT. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 26/MUM/2022 - A.Y. 2018-19
ITA No. 27/MUM/2022 - A.Y. 2013-14

Indian Overseas Bank (Mah) Employees Co-op Credit Society Ltd 2/10, Elephistian Building, Veer Nariman Road, Fort, Mumbai-400 023 PAN : AAAAI2394IP	vs	Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi
APPELLANT		RESPONDENT

Assessee represented by	Shri Prakash Jhunjunwala
Department represented by	Shri Himanshu Sharma

Date of hearing	25/05/2022
Date of pronouncement	22/07/2022

ORDER

Per Kavitha Rajagopal (JM):

This appeal is filed by the Assessee against the order of Ld.CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 16/09/2022 and 27/10/2021 for the Assessment years 2018-18 and 2013-14, respectively.

ITA No.26/Mum/2022 - 2018-19

2. The grounds of appeal raised by the assessee are as below:-

“1. On facts and circumstances of the case and in Law, Ld. CIT(A) ought to have deleted the disallowance of deduction u/s. 80P(2)(a)(i) and 80P(2)(d) of Rs.40,30,464/-.

2. On facts and circumstances of the case and in Law, Ld. CIT(A) erred in not admitting the appeal under an incorrect reason of delay in filing of the appeal, since the appeal was filed in time on 09/12/2019 from the date of order served on 26/11/2019

3. The Ld. CIT(A) erred seriously in passing the appeal order without intimating the defect in the appeal and on ignoring the written submission filed on record, thereby violated the principle of natural justice.”

3. The grounds of appeal raised by the assessee pertain to disallowance of deduction under section 80P(2)(i) and 80(P)(2)(d). The brief facts are that the assessee is a co-operative credit society registered under Maharashtra Co-operative Societies Act, 1960 which is formed for the welfare of the employees of M/s Indian Overseas Bank Ltd. The assessee filed its return of income at Nil after claiming deduction under section 80P of Rs.40,30,464/-. The deduction under section 80P was denied on the ground that the return was filed belatedly. Aggrieved by this, the assessee filed appeal before the Ld.CIT(A) manually and electronically on 09/12/2019 after a delay of 163 days which was not accepted by the Ld.CIT(A) as no reason was adduced in Form 35. The Ld.CIT(A) dismissed the appeal on the ground that the assessee has failed to explain the delay in filing the appeal and that there was no sufficient cause for the delay. Aggrieved, the assessee is in appeal before us.

4. The Ld.AR for the assessee submitted that there was no delay in filing the appeal as intimation under section 143(1) dated 29/06/2019 was served on the assessee on 26/11/2019 and that the appeal in manual form was filed in time on 09/12/2019 (within 30 days). The Ld.AR further stated that the assessee was not aware of the intimation passed under section 143(1) by the

CPC on 29/06/2019 and that the communication was received by the assessee only on 26/11/2019 at 6.34 AM via email and the copies of the same has been furnished. The Ld.AR argued that the assessee is a non profit motive co-operative credit society formed by the employees of Indian Overseas Bank Ltd which provides honorary services and there was no wilful delay or gross negligence on the part of the assessee in filing the appeal.

5. The Ld.DR, on the other hand, vehemently opposed the same and alleged that the appeal ought to have been filed within 30 days from the date of receipt of the order and relied on the provisions of section 249(2) of the Act.

6. Having heard both the learned representatives and perused the materials on record, we are of the considered view that the assessee has not wilfully delayed the filing of appeal and we find that there is no negligence on the part of the assessee, as the assessee has filed appeal manually in time. We find that the reasons mentioned are bonafide and it amounts to sufficient cause for the delay in filing appeal electronically before the Ld.CIT(A). Therefore, in the interest of natural justice, we condone the delay and restore the appeal to the file of the Ld.CIT(A) as the assessee's case is squarely covered by various decisions. Therefore, we restore the matter to the file of Ld.CIT(A) and direct him to adjudicate the matter on merit.

7. In the result, appeal is allowed for statistical purpose.

ITA No.27/Mum/2022 – A.Y. 2013-14

8. The facts and circumstances as also the grounds raised are identical to the appeal decided above. Therefore, the decision arrived at therein would apply mutatis mutandis to this appeal also.

9. In the result, appeal is allowed for statistical purpose.

10. As a result, both the appeals are allowed for statistical purpose.

Order pronounced in the open Court on 22nd July, 2022.

Sd/-

sd/-

(PRASHANT MAHARSHI)	(KAVITHA RAJAGOPAL)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, Dated: 22/07/2022

Pavanan

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai