



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.68/LKW/2019  
Assessment Year: 2015-16

The Income Tax Officer Basti	v.	M/s Sakkari Ganna Vikas Samiti Limited Near Bus Station, Basti
		TAN/PAN:AADTS5172J
(Appellant)		(Respondent)

C.O No.07/LKW/2019  
[ Arising out of ITA No.68/LKW/2019 ]  
Assessment Year: 2015-16

M/s Sakkari Ganna Vikas Samiti Limited Near Bus Station, Basti	v.	The Income Tax Officer Basti
TAN/PAN:AADTS5172J		
(Cross Objector)		(Respondent)

Assessee by:	None		
Department by:	Shri Harish Gidwani, D.R.		
Date of hearing:	25	07	2022
Date of pronouncement:	05	08	2022

**ORDER**

**PER A.D. JAIN, V.P.:**

This is Revenue's appeal against the order of the ld. CIT(A)-1, Lucknow, dated 11.10.2018 for Assessment Year 2015-16, raising the following Grounds of Appeal:

- Whether the learned CIT(A) was right, without giving a finding of facts, of efforts made earning "Commission" from sugar mills on sugarcane independently supplied by*

*sugarcane growers in catchment area to sugar mills at rates determined by the State Government, to conclude that such receipts were "business" receipts.*

*2. Whether the learned CIT(A) was right in directing deduction under section 80P in respect of such gross receipts from sugar mills, especially without giving finding of fact that such receipts were duly earned as business receipts.*

2. The assessee has filed Cross-Objection, raising the following Grounds:

- 1. The Assessing Officer has wrongly disbelieved the books of account of the Cross-Objector but the ld. CIT(A) has not adjudicated upon this issue.*
- 2. The ld. CIT(A) has failed to adjudicate upon the issue of quantum of estimate of total income made by the Assessing Officer.*
- 3. The ld. CIT(A) has failed to consider that the computation of total income has not been made by the Assessing Officer in the manner laid down under mandatory provisions of the Income Tax Act.*

3. The brief facts of the case are that the assessee has filed its return of income on 18.9.2015, showing profit and gains from business and profession at Rs.1,81,46,551/- and after claiming deductions under section 80P of the I.T. Act, the total income was shown as Nil. The case was selected from scrutiny through CASS and the assessment was completed at an income of Rs.1,81,46,551/-. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the ld. CIT(A), who held that the assessee is entitled for deduction under section 80P(2)(a)(iii) of the I.T. Act with respect to the commission income, amounting to Rs.1,81,46,551/- earned by the assessee

from Sugar Mills, and accordingly directed the Assessing Officer to allow deduction under section 890P of the I.T. Act to the assessee. Aggrieved by the order of the Id. CIT(A), the Revenue is in appeal challenging the order of the Id. CIT(A) and the assessee has filed cross objection.

4. None has appeared for the Assessee. However, finding that the matter can be proceeded with in the absence of the Assessee, we are doing so, having heard the Id. D.R. and having perused the material on record.

5. As is evident, both the Revenue as well as the assessee are aggrieved by the order of the Id. CIT(A). In the Grounds of Appeal, the assessee has challenged the order of the Id. CIT(A), stating that the Assessing Officer has wrongly disbelieved the books of account of the assessee, but the Id. CIT(A) has not adjudicated upon this issue; that the Id. CIT(A) has failed to adjudicate upon the issue of quantum of estimate of total income made by the Assessing Officer; and that the Id. CIT(A) has failed to consider that the computation of total income has not been made by the Assessing Officer in the manner laid down under mandatory provisions of the Income Tax Act.

6. Since, both, the Revenue as well as the assessee are aggrieved by the order of the Id. CIT(A), and particularly when the grievance of the assessee is that certain issues have not been adjudicated upon by the Id. CIT(A), the matter, in the interest of justice, needs to be sent back to the file of the Id. CIT(A) for adjudicating upon the issues raised by the assessee during the course of appellate proceedings. At the same time, the Id. CIT(A) will also consider the Grounds of appeal raised by the Revenue and to pass an order as per law. Accordingly, we set aside the

order of the ld. CIT(A) and restore the matter to his file to decide the issue afresh in accordance with law.

7. In the result, the appeal of the Revenue as well as the Cross Objection of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 05/08/2022.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:05/08/2022

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar