

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER

**ITA No.2301/Mum/2022
(Assessment Year :2013-14)**

&

**ITA No.2300/Mum/2022
(Assessment Year :2014-15)**

M/s. Royal Indl Estate Co Op Soc Ltd 5-B Royal Industrial Estate C, Naigaon Cross Road Wadala Mumbai 400031, Maharashtra, India	Vs.	Dy. Comm. Of Income Tax, Mumbai, 6 th Floor, Piramal Chambers, Lalbag, Mumbai-400012
PAN/GIR No.AAAAR4582P		
(Appellant)	..	(Respondent)

Assessee by	Shri. Haridas Bhat
Revenue by	Shri. Pratap Sharma
Date of Hearing	27/10/2022
Date of Pronouncement	27/10/2022

आदेश / ORDER

PER M. BALAGANESH (A.M):

These appeals in ITA No. 2301/Mum/2022, 2300/Mum/2022 for A.Y.2013-14, 2014-15 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC) in appeal Nos.CIT(A) 32, Mumbai/10712/2019-20, CIT(A) 32, Mumbai/10713/2019-20 dated 15/07/2022 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3)of the Income Tax Act, 1961

(hereinafter referred to as Act) dated 23/03/2016 & 11/11/2016 by the Id. Asstt. Commissioner of Income-tax (hereinafter referred to as Id. AO).

1.1. Identical issues are involved in both these appeals and hence, they are taken up together and disposed of by this common order for the sake of convenience.

1.2. With the consent of both the parties, the assessment year 2013-14 is taken as the lead case and the decision rendered thereon would apply with equal force for A.Y.2014-15 also.

2.1. The assessee has raised the following grounds of appeal for A.Y.2013-14.

“1. On the facts and circumstances of the case, and in Law, the CIT Appeals, erred in dismissing the appeal without adjudicating.

2. On the facts and circumstances of the case and in law the CIT(A) failed to appreciate that

a) The assessee mentioned no delay while filing since it was not used to the electronic filing system.

b) The delay in filing the appeal was with reasonable cause, which was not explained to the CIT(A), since the same was not show caused by him.

c) Dismissal of appeal without adjudicating the same, for a mistake in filling a column is bad at law.

3. The Appellant therefore prays that the case may please be sent back to the CIT(A) for adjudication.

GROUND II (without prejudice to Ground no. 1)

1. On the facts and circumstances of the case, and in Law, the CIT Appeals, erred in not allowing the claim of 80P(2)(d) of Rs. 28,36,780/-.

2. On the facts and circumstances of the case and in law the AO/ CIT(A) failed to appreciate that

a) The assessee has received interest from a Co operative Bank.

b) The Assessee is not a credit co operative society

c) The Assessee is eligible for deduction U/s80P (2) (d) for the interest received from Co op banks as per the legal pronouncements and the orders passed by the CIT(A) in other years.

3. The Appellant therefore prays that the disallowance of 80P(2)(d) of Rs. 28,36,780/- made may be deleted.

The appellant craves leave to add to, alter, and / or amend the above grounds”

3. We have heard rival submissions and perused the materials available on record. We find that the appeal was filed belatedly before the Id. CIT(A) with a delay of 1366 days. But in Form No.35, the assessee had mentioned that there was no delay in filing of appeal before the Id. CIT(A). This mistake was duly pointed out by the Id. CIT(A) vide notice issued u/s.250 of the Act dated 21/06/2022 seeking for reasons in filing of appeal belatedly before the Id. CIT(A). No compliance was made by the assessee in that regard. Accordingly, the Id. CIT(A) dismissed the appeal as not admitted. Even before us, the Id. AR could not point out any reasonable cause that would enable us to direct the Id. CIT(A) to condone the delay and take up the appeals for adjudication. The Id. AR merely stated that the residents of Co-operative Housing Society were not conversant with the Income Tax matters and there was no authorised representative appointed to handle the affairs of the society. In our considered opinion, the said explanation does not constitute reasonable cause so as to condone the delay in filing of appeals before the Id.CIT(A). First of all, we find that the assessee society had not even bothered to respond to the notice dated 21/06/2022 issued by the Id. CIT(A) seeking reasons for filing of appeal belatedly. This shows a cavalier attitude of the assessee society. Despite the fact of mentioning the wrong change in Form No.35 (which is a statutory form) that appeal has been filed in time, the assessee society should have awakened when that mistake was duly

pointed out by the Id. CIT(A), first by filing revised Form No.35 and thereafter, file a delay condonation petition explaining the reasons for filing of appeal belatedly. This is admittedly not being done by the assessee for both the years. Hence, we do not find any justifiable reason to interfere with the order of the Id. CIT(A) for both the years under consideration. Accordingly, the appeals of the assessee are hereby dismissed.

4. In the result, appeals of the assessee are dismissed.

Order pronounced in open Court on 27/10/2022 by way of proper mentioning in the notice board.

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 27/10/2022
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary / Asstt. Registrar)
ITAT, Mumbai