

आयकर अपीलीय अधिकरण
कोलकाता 'ए(एसएमसी)' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A(SMC)' BENCH, KOLKATA

श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष

Before

RAJESH KUMAR, ACCOUNTANT MEMBER

&

SONJOY SARMA, JUDICIAL MEMBER

आयकर अपील संख्या: 112/कोल/2022

निर्धारण वर्ष: 2019-20

I.T.A. No.: 112/Kol/2022

Assessment Year: 2019-20

Bhairabnala Samabay Krishi Unnayan Samity Limited.....Appellant
[PAN: AACAB 7492 G]

Vs.

Assistant Director of Income Tax, CPC.....Respondent

Appearances by:

Shri A.N. Chatterjee & Shri S.D. Bandhyapadhyaya, AR appeared on behalf of the Assessee.

Shri Partha Pratim Barman, Addl. CIT appeared on behalf of the Revenue.

Date of concluding the hearing : August 30, 2022

Date of pronouncing the order : November 23, 2022

आदेश / O R D E R

PER SONJOY SARMA, JUDICIAL MEMBER:

This appeal of the assessee for the assessment year 2019-20 is directed against the order dated 28.12.2021 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the 'Id. CIT(A)']].

2. The assessee has raised the following grounds of appeal for AY 2019-20:

1. For that in the facts and in the circumstances of the case and in law, the disallowance of claim of deduction under section 80P in processing of return of income under section 143(1) is wrong erroneous, arbitrary, excessive, unlawful and deserve to be set aside/cancelled/annulled.

2. For that in the facts and in the circumstances of the case and in law, the disallowance made under section 80P was against the provisions of law as per section 143(1)(a)(v) do not contains the consideration of disallowance under section 80P of the Income Tax Act, 1961 in processing of return under section 143(1) for the A.Y. 2019-20.

3. For that in the facts and in the circumstances of the case and in law, the claim of deduction under section 80P of Rs. 11,02,780/- cannot be disallowed/denied in processing of return of income without granting opportunity of hearing to assessee either in assessment stage or in first appeal there by rendering the orders of authorities below invalid, ab-initio void, illegal and against the natural justice.

4. For that the assessee craves leave to alter, add, amend, moderate, substitute or delete any one or more of the ground or grounds of appeal at any time before or in course of hearing.”

3. Brief facts of the case are that the assessee is a Co-operative Society registered under West Bengal Co-operative Societies Act, 1983 as amended up to date. Assessee filed its income tax return u/s 139 of the Act for A.Y. 2019-20 on 28.03.2020. The return of the assessee was processed u/s 143(1) of the Income Tax Act, 1961 and thereafter the assessee received an intimation on 24.07.2020 in which an amount of Rs. 4,42,160/- was demanded by Assistant Director of Income Tax, CPC disallowing the statutory deduction u/s 80P of the Act for non-submission of income tax return within due date i.e. 31.10.2019.

4. Dissatisfied with the above order, the assessee is in appeal before authorities below. However, the appeal of the assessee was dismissed by NFAC, Delhi vide order dated 28.12.2021. At the time of hearing, the Id. AR submitted that the assessee is a co-operative society registered under West Bengal Cooperative Societies Act, 1983 amended upto date. For the assessment year under consideration, the return of income have been filed by the assessee belatedly that is beyond the date prescribed u/s 139(1) of the Act. Details of which are given below:

<i>AY</i>	<i>Due date</i>	<i>Date of filing</i>
2019-20	31.10.2019	28.03.2020

5. The return of the assessee for the year under consideration was processed u/s 143(1) of the Act by the CPC wherein the deduction claimed by the assessee u/s 80P of the Act was disallowed. In the appellate proceedings, the Id. CIT(A) stated that assessee has filed return of income belatedly and accordingly, the Id. CIT(A) confirmed the rejection of claim for deduction u/s 80P of the Act made by the AO in the intimation issued u/s 143(1) of the Act. In this regard, the Id. AR submitted that impugned adjustment made by way of disallowance of claim u/s 80P of the Act is beyond power of Assessing Officer during the year under consideration. The Id. AR invited our attention to the provisions of section 143(1)(a)(v) of the Act and submitted that the power to disallow the claim u/s 80P has been given to the AO w.e.f. 01.04.2021 by Finance Act, 2021 relevant to A.Y. 2021-22. Accordingly, the Id. AR submitted that the Assessing Officer was not empowered to disallow the claim u/s 80P of the Act for the year under consideration while processing return u/s 143(1) of the Act. On the contrary, the Id, DR supported the order passed by the Id. CIT(A).

6. We have heard rival contention of the parties and perused the material available on record in the instant case. There is no dispute that the assessee had made claim u/s 80P of the Act. The Id. AR also brought to our notice that the power to make disallowance of deduction under the head "C – deduction in respect of certain incomes" under Chapter VIA while processing the return u/s 143(1) of the Act has been given to the AO by Finance Act, 2021 w.e.f. 01.04.2021 relevant to A.Y. 2021-22. This provision was introduced from A.Y. 2021-22 but the same cannot be given effect to instant assessment year 2019-2020. Therefore,

there was no power available with AO to disallow the claim made under “C – deduction in respect of certain income” under chapter VIA. Hence, for all the reasoning mentioned above, we are of the view that the AO could not have disallowed the deduction claimed by the assessee u/s 80P of the Act for the assessment year under consideration while processing the return of income u/s 143(1) of the Act. Accordingly, we set aside the order passed by the Id. CIT(A) on this issue for the assessment year under consideration and direct the AO to delete the disallowance of claim for deduction made u/s 80P of the Act.

7. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 23.11.2022

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Dated : 23.11.2022
Biswajit, Sr. P.S.

आदेशकीप्रतिलिपिअग्रेषित / Copy of Order Forwarded to:-

- 1.अपीलार्थी/Appellant/: **Bhairabnala Samabay Krishi Unnayan Samity Limited, Vill. Bhairabnala, Post. Hatbele, Block. Kalna 1, Dist. Purba Bardhaman. Pin. 713409.**
2. प्रत्यर्थी/Respondent/: **Assistant Director of Income Tax, CPC.**
3. संबंधितआयकरआयुक्त/ Concerned CIT
- 4.आयकरआयुक्त- अपील / CIT (A)
5. विभागीयप्रतिनिधि,आयकरअपीलीयअधिकरणकोलकाता / DR, ITAT, Kolkata
- 6.गार्डफाइल/ Guard file.

True Copy/

By order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata