

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCHE : NAGPUR
(THROUGH VIRTUAL HEARING)
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
ITA.No.21/Nag./2021
Assessment Year 2011-2012

Chandrapur Zilla Parishad Karmachari Credit Co- Operative Society, Near Vishwabharti Hotel, Main Road, Chandrapur. Maharashtra. PIN 442 401 PAN AAAAC1434F	vs.,	The Income Tax Officer, Ward – 1, Railway Station Road, Near LIC Office, Chandrapur – 442 402.
(Appellant)		(Respondent)

For Assessee :	Shri K.P. Dewani
For Revenue :	Shri G.J. Ninawe

Date of Hearing :	15.11.2022
Date of Pronouncement :	09.12.2022

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal for A.Y. 2011-12, arises against the CIT(A)-2, Nagpur's order dated 20.07.2020, passed in case No.CIT(A)-2/10699/2017-18, in proceedings under section 143(3) r.w.s. 250 of the Income Tax Act, 1961 ["In short Act"].

2. Heard both the parties. Case file perused.
3. Delay of 182 days in filing of the instant appeal is condoned as per the assessee's duly sworn in affidavit attributing reasons thereof to communication gap(s) at various levels as well as provision of section 3(1) of The Taxation and other Laws (Relaxation And Amendment of Certain Provisions) Act 2020 extending the date of filing of the appeal(s) up to 31st March, 2021. Hon'ble apex court's landmark decision Collector, Land Acquisition vs., MST

Katiji [1987] 167 ITR 471 (SC) has settled the law long back that all such technical aspects must make way for the cause of substantial justice. The Revenue has also not been able to rebut the assessee's foregoing averments. The impugned delay of 182 days in filing of the instant appeal stands condoned therefore.

4. Coming to the assessee's five substantive grounds raised during the course of hearing that both the learned lower authorities have erred in law and on facts in disallowing section 80P(2)(a) deduction claim of Rs.15,26,953/-, we note that the CIT(A)'s detailed discussion to this effect reads as under :

5.1 Ground No.1 & 2 are related to deduction u/s. 80P of the Act. However, it is found that in fact, an appeal order u/s 250 related to the A.Y. under consideration, i.e. A.Y. 2011-12 has already been passed in case of the appellant society viz. Chandrapur Zilla Parishad Karmachari Credit Co-Op Society. In the same, the then Ld. CIT(A)-2 following the judgement of ITAT, Nagpur in case of one Shri Gopalkrishna Urban Credit Society Nagpur & 7 others (ITA No. 68/Nag/2012) for A.Y. 2008-09 gave the decision that appellant society was eligible for the deduction u/s 80P(2)(a)(i). However it was mentioned in the entire appeal order (at more than one place) that the deduction claimed u/s 80P(2)(a)(i) was of Rs. 1,23,73,417 and therefore in para no. 5 of the said appeal order dated 17-06-2014 the then Ld. CIT(A) directed to allow deduction of the same amount u/s 80P of the Act and in conclusion allowed the appeal.

5.1.1 In these proceedings, the Ld. Counsel for the appellant mentioned that while giving effect to the order the Ld. A.O. by his order dated 23-07-2014 after giving relief as deduction of Rs.1,23,73,417 u/s 80P assessed balance Rs. 15,26,953 as Net Taxable Income from the original Total Income of Rs.1,39,00,370 (which was assessed by ITO by his order dated 09-10-2013).

5.1.2 Thus the grievance of the appellant society was that the deduction u/s 80P should have been allowed to the extent of Rs. 1,39,00,370 (which was assessed by disallowing some payments as per section 43B of the Act related to various provisions like Audit fees, Gratuity, NPAs etc.)

5.1.3 All the facts and circumstances of the case were considered and it is found that unfortunately four years from the date of the appeal order i.e. 17-06-2014 have

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निर्धारणवर्ष / AY : 2011-12

already passed and therefore in spite of there being a mistake apparent from the record, this mistake can't be rectified now. However, so far as this appeal is concerned, it is not maintainable as such in law and therefore, has to be dismissed for statistical purpose.

6.0 In the result, the appeal of the appellants is **dismissed**, for statistical purposes.

5. We note from perusal of the case file that the Assessing Officer's original assessment had disallowed sec.80P(2)(a) deduction of Rs.1,23,73,417/- and this latter sum of Rs.15,26,956/- (supra) representing NPA advances in sec.143(3) order dated 09.10.2013. The assessee appealed before the CIT(A) qua the former issue only which stood allowed. And the Assessing Officer passed his giving effect order on 23.07.2014. We thus conclude that the assessee's instant grievance is not maintainable in this second round. Rejected accordingly.

6. This assessee's appeal is dismissed in above terms.

Order pronounced in the open court on 09.12.2022.

Sd/-
[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 09th December, 2022

VBP/-

*ITA.No.21/Nag./2021 Chandrapur Zilla Parishad
Karmachari Credit Co-op Society, Chandrapur.*

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,
Pune.