

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE MS.SUCHITRA KAMBLE, JUDICIAL MEMBER**  
**AND**  
**SHRIB.M. BIYANI, ACCOUNTANT MEMBER**

*(Conducted through Virtual Court)*

**ITA No.18/Ind/2019**  
**Assessment Year: 2013-14**

M/s. M.P. State Cooperative Marketing Federation Ltd. Bhopal	<b><u>बनम/</u></b> Vs.	ACIT-2(1), Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AABAT 4628 H</b>		
Assesseeby	Shri Anil Khabya, AR	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	04.01.2023	
Date of Pronouncement	30.01.2023	

**आदेश/O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by appeal-order dated 27.11.2018 passed by learned Commissioner of Income-Tax (Appeals)-3, Bhopal[“**Ld. CIT(A)**”], which in turn arises out of assessment-order dated 10.03.2016 passed by learned ACIT-2(1), Bhopal[“**Ld. AO**”] u/s 143(3) of Income-tax Act, 1961 [“**the Act**”]for Assessment-Year[“**AY**”] 2013-14, the assessee filed this appeal on following two grounds:

- “1. That the Ld. CIT(A) erred in maintaining disallowance of deduction of 80P of Rs.5,02,23,957/- in respect of storage income derived from CAP storage.

2. *That the Ld. CIT(A) erred in maintaining disallowance of claim of deduction u/s 80P of Rs.1,18,52,613/- on account depreciation (Protective)."*

2. This appeal was originally decided by our order dated 17.02.2022 wherein Ground No.1 was decided in favour of assessee but Ground No.2 was treated as infructuous and therefore not adjudicated. Subsequently, the assessee filed Misc. Application No.13/Ind/2022 with a request to adjudicate Ground No. 2 on merit. The Misc. Application was allowed by Order dated 07.12.2022. This way, the present-appeal has again come up before us.

3. Presently we are required to adjudicate Ground No. 2 which reads as under:

*"2. That the Ld. CIT(A) erred in maintaining disallowance of claim of deduction u/s 80P of Rs.1,18,52,613/- on account depreciation (Protective)."*

4. Heard the learned Representatives of both sides and case-records perused.

5. Ld. AR submits that the assessee is an APEX body of marketing societies, registered under M.P. State Co-operative Societies Act, 1960 and part of the activities carried on by assessee were eligible for deduction u/s 80P of Income-tax Act, 1961, which stand allowed to assessee. Ld. AR further submits that while computing taxable income u/s 28 from various activities (including the activities eligible for deduction u/s 80P), the assessee claimed depreciation of Rs.1,60,23,529/- u/s 32 which the Ld. AO disallowed while finalizing assessment. At the same time, the Ld. AO also made a protective disallowance of Rs. 1,60,23,529/- out of the deduction u/s 80P. During first- appellate proceeding, the Ld. CIT(A) allowed the claim of depreciation of Rs. 1,60,23,529/- u/s 32. But the Ld. CIT(A) maintained the protective disallowance out of deduction u/s 80P although he reduced

the quantum of protective-disallowance from Rs. 1,60,23,529/- to Rs.1,18,52,613/-. This way, according to Ld. AR, presently the protective disallowance of Rs. 1,18,52,613/- out of deduction u/s 80P is sustained, which has the effect of reducing the assessee's deduction u/s 80P by Rs. 1,18,52,613/-. Ld. AR submits that the impugned disallowance of Rs. 1,18,52,613/- which is sought to reduce the deduction u/s 80P, is on account of depreciation relatable to "Buildings and Godowns block" of assets. Ld. AR submits that the assessee is having several "Buildings and Godowns" consisting of not only the Building/Godowns used for the activities eligible for deduction u/s 80P but also for other activities such as keeping own goods of assessee which is not eligible for deduction u/s 80P, administrative buildings, etc. Ld. AR submits that under the scheme of Income-tax Act, 1961, the block of "Buildings and Godowns" is a single block for depreciation purpose and there is no way to separate the depreciation relatable to the activities eligible for 80P deduction. Hence it is not at all justified on the part of revenue-authorities to reduce the deduction u/s 80P by the amount of full depreciation of Rs. 1,18,52,613/-relatable to "Buildings and Godown block" or by even a part of it. Hence, there is no merit in sustaining protective disallowance of Rs. 1,18,52,613/-; the same deserves to be deleted.

6. Ld. DR supported the orders of lower authorities and prayed to uphold the disallowance.

7. We have considered the rival contentions and submissions of both sides. After a careful consideration, we are unable to verify certain facts relevant to the issue being agitated, viz. (i) whether and to what extent the buildings/godowns are being used for the activities eligible for 80P deduction or other activities as being claimed before us; and (ii) the treatment given by assessee and accepted by revenue-authorities in the preceding and subsequent assessment-years on this issue. Hence, we think it appropriate to remand this issue back to the file of Ld. AO who shall first

verify these aspects and thereafter take a call on the issue in the light of legal provisions of Income-tax Act, 1961 and the judicial rulings, if any, thereon. That would enable to resolve the assessee's grievance aptly. Needless to mention that the Ld. AO shall give adequate opportunities to the assessee to explain his case.

**8. Resultantly, this appeal of assessee is allowed for statistical purpose.**

*Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 30/01/2023.*

*Order pronounced in the open court on ...../...../2023.*

Sd/-

(SUCHITRA KAMBLE)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/Dated : 30.01.2023

Patel/Sr. PS

*Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	