

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, JUDICIAL MEMBER
AND
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No. 1144/Bang/2022
Assessment Year : 2017-18

The Income Tax Officer, Ward – 1, Bagalkot.	Vs.	M/s. Shri Biluru Gurubasav Sahakari Pattin Sangh Niyamit, 112/5 Nara Building, Adat Bazar, Bagalkot – 587 101. Karnataka. PAN: AABAS7016A
APPELLANT		RESPONDENT

Assessee by	:	Shri Sandeep Chalapathy, CA
Revenue by	:	Smt. Priyadarshini Baseganni, Addl. CIT (DR)

Date of Hearing	:	30-01-2023
Date of Pronouncement	:	31-01-2023

ORDER

PER PADMAVATHY S, ACCOUNTANT MEMBER

This appeal by the revenue is against the order of Commissioner of Income Tax (Appeals), NFAC dated 20/10/2022 for A.Y. 2017-18.

2. The assessee is a credit cooperative society and filed the return of income for A.Y. 2017-18 on 01.11.2017 declaring total income as Nil after claiming a deduction of Rs.1,52,04,234/- u/s. 80P(2)(a)(i) of the Income Tax Act, 1961 (the Act) against income of Rs.1,39,64,186/- declared under

the head profits and gains from business or profession and Rs.12,40,048/- as income from other sources.

3. The assessee's case was selected for scrutiny and the statutory notices were duly served on the assessee. The assessing officer completed the assessment u/s. 143(3) thereby he had disallowed the entire claim u/s. 80P(2)(a)(i) of Rs.1,52,04,234/-. Aggrieved the assessee filed an appeal before the CIT(A).
4. Before the CIT(A), the assessee raised grounds with regard to entire disallowance made by the assessee. The assessee also raised separate grounds for disallowance of interest income of Rs.12,40,048/- u/s.80P(2)(a)(i) which the assessee has claimed as a deduction against the income declared under income from other sources. The CIT(A) directed the AO to allow the deduction of Rs.1,52,04,324/- claimed by the assessee u/s. 80P(2)(a)(i) of the Act with regard to the separate ground raised for disallowance of Rs.12,40,048/-. The CIT(A) held that the AO has not made any separate addition on account of interest income earned and therefore the grounds raised by the assessee are not eligible for adjudication.
5. In the order giving effect, the Assessing Officer allowed the deduction of Rs.1,39,64,186/- u/s. 80P(2)(a)(i) against the income declared by the assessee under the head business or profession. The Assessing Officer stated that deduction u/s. 80P(2)(a)(i) for an amount of Rs.12,40,048/- will not be eligible for deduction against income from other sources. Accordingly, the AO in the OGE assessed the income of the assessee at Rs.12,40,048/-. Aggrieved by the order of CIT(A), the revenue is in appeal before the Tribunal.

6. During the course of hearing, the Ld.AR submitted that the appeal filed by the revenue needs to be dismissed on the ground that the tax demand arising out of the appeal is below Rs. 50 Lakhs. In this regard, the Ld.AR presented the below statement of computation wherein the tax liability is computed at Rs.48,29,265/-.

Particulars		Amount (in Rs)
Income from Business or Profession		1,39,64,186
Tax on the above income		
Upto 10,000	10%	1,000
10,000 to 20,000	20%	2,000
Above 20,000	30%	41,83,256
Tax Liability		41,86,256
Add : Surcharge	12%	5,02,351
		46,88,606
Add : Education Cess	3%	1,40,658
Total Tax Liability		48,29,265

7. The Ld.DR on the other hand submitted that the CIT(A) has allowed the entire deduction claimed u/s. 80P(2)(a)(i) for Rs.1,52,04,324/- and the tax effect on the same would work out to Rs.52,58,419/-. Therefore the Ld.DR argued that the appeal cannot be dismissed on the ground of monetary limit.
8. The Ld.AR as a counter submitted that though the CIT(A) has allowed the entire amount claimed by the assessee, in the order giving effect, the assessing officer gave relief to the assessee only to the extent of Rs.1,39,64,186/- and therefore the amount in dispute in this appeal is only the said amount and not the entire deduction allowed by the CIT(A). The Ld.AR also submitted that the assessee has not contended that the income assessed by the Assessing Officer in the order giving effect for

Rs.12,40,048/- and has duly settled the tax on the same. Accordingly, the Ld.AR prayed for dismissing the appeal on monetary grounds.

9. We heard the submissions and perused the material on record. In the return of income filed on 01.11.2017, the assessee has declared Rs.1,39,64,186/- under the head business or profession and Rs.12,40,048/- as income from other sources. The assessee claimed the deduction u/s. 80P(2)(a)(i) for Rs.1,52,04,234/- and accordingly filed a Nil return. The CIT(A) in his order has given relief to the assessee against the disallowance made by the AO for the entire amount of Rs.1,52,04,234/-. The Assessing Officer in the order giving effect dated 11.11.2022 passed u/s. 250 r.w.s. 143(3) has allowed the deduction only to the extent of Rs.1,39,64,186/-. The relevant extract of the order giving effect is as given below.

“2. The CIT(Appeal), NFAC in its order dated 20.10.2022 vide DIN. ITBA/NFAC/S/250/2022-23/10464044170(1) has allowed assessee's appeal. It is pertinent to mention here that, the assessee has filed return of income declaring income under the head 'Business or profession' of Rs.1,39,64,186/- and income from 'Other sources' at Rs.12,40,048/-. The assessee is claiming deduction u/s 80P of Rs.1,52,04,230/- but the deduction is restricted to income declared under the head income from Business and profession of Rs.1,39,64,186/-.

3. Accordingly, the income declared under the head 'Income from Other Sources' amounting to Rs.12,40,048/- will not be eligible for deduction under Chapter VI-A i.e. 80P(2)(a)(i). Hence, the income assessed u/s 143(3) rws 250 is Rs.12,40,048/-rounded off to Rs.12,40,050/-.”

10. We also notice that in the clarification sought by the Ld.DR from the AO date 25.01.2023, the AO has admitted that in the OGE, the AO could not give the benefit of deduction u/s. 80P(2) to the extent of Rs.12,40,048/- due to software limitation. It is noticed that the amount assessed u/s. 250 r.w.s. 143(3) for Rs.12,40,048/- is not disputed by the assessee by not

filing any cross appeal and that the assessee has settled the tax dues on the same as per the submissions of the Ld.AR. Therefore we see merit in the contention of the Ld.AR that the amount in dispute arising out of this appeal is only Rs.1,39,64,186/- and the tax effect on the same is less than Rs. 50 Lakhs. Accordingly we dismiss the appeal on the ground of monetary limit as per CBDT Circular No.7/2019 dated 8.8.2019.

11. In result the appeal is dismissed

Order pronounced in the open court on 31st January, 2023.

Sd/-
(GEORGE GEORGE K)
Judicial Member

Sd/-
(PADMAVATHY S)
Accountant Member

Bangalore,
Dated, the 31st January, 2023.
/MS /

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|---------------|------------------------|
| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore