

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1098/Chny/2022
निर्धारण वर्ष/Assessment Year: 2019-2020

M/s. Ponneri Urban Cooperative Credit Society Limited JJ 64,
No. 5, Neeli Appadurai Mudali Street,
Ponneri, Tiruvallur 601 204,
Tamil Nadu. Vs. The Assistant Director of
Income Tax,
Central Processing Centre,
Bangalore.

[PAN:AAIAP2474N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri B. Suresh, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 27.02.2023
घोषणा की तारीख /Date of Pronouncement : 10.03.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 01.12.2022 relevant to the assessment year 2019-2020.

2. Facts are, in brief, that the assessee is a credit cooperative society engaged in the business of extending credit facilities to its members. The

assessee filed its return of income for the year under consideration on 25.09.2020 admitting NIL income after claiming deduction under section 80P of the Income Tax Act, 1961 ["Act" in short]. The Assessing Officer, CPC, Bangalore noticed that the assessee has not filed audit report along with return and issued notice to the assessee to rectify the defect. However, the assessee has not responded. The Assessing Officer, CPC, Bangalore passed assessment order under section 143(1) of the Act dated 21.12.2021 by denying the claim of deduction under section 80P of the Act and the total income was assessed at ₹.63,90,264/-.

3. The assessee carried the matter in appeal before the Id. CIT(A) and submitted that once it is noticed that the return filed by the assessee is defective, the Assessing Officer, CPC, Bangalore ought not to have acted upon and therefore, the order passed by the Assessing Officer is not valid. By considering the submissions of the assessee, the Id. CIT(A) has noted that though the return was treated as an invalid return, the provisions of the Act shall apply as if the assessee has failed to furnish the return, which means, the benefit of deduction has to be withdrawn as the audit report was not furnished along with the return of income. Accordingly, the Id. CIT(A) upheld the order passed by the Assessing Officer.

4. On being aggrieved, the assessee is in appeal before the Tribunal. Before us, the Id. Counsel for the assessee has reiterated the submissions, which he has made before the Id. CIT(A).

5. On the other hand, the Id. DR strongly supported the order passed by the authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee filed its return of income by claiming deduction under section 80P of the Act without filing audit report along with the return of income. The Assessing Officer, CPC, Bangalore found that the return filed without audit report is defective and directed the assessee to rectify the defect i.e, to file audit report. The assessee has not rectified the defect. Thus, by denying the claim of deduction under section 80P of the Act, the Assessing Officer, CPC, Bangalore passed the assessment order under section 143(1) of the Act dated 21.12.2021. The argument of the assessee before the Id. CIT(A) and even before us is that when the Assessing Officer, CPC, Bangalore came to a conclusion that the return filed by the assessee is defective, he ought not to have acted upon and the denial of benefit of deduction under section 80P of the Act is invalid. By considering the entire facts and circumstances of the case and also

the submissions of the assessee, we are of the opinion that to claim benefit under section 80P of the Act, the assessee has to file audit report. In this case, the assessee has failed to file the audit report and for that reason, the Assessing Officer, CPC, Bangalore denied the claim of deduction under section 80P of the Act. In our opinion, one more opportunity shall be given to the assessee to file the audit report before the Assessing Officer, CPC, Bangalore and accordingly, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Assessing Officer for affording one more opportunity to the assessee to furnish the audit report and decide the matter afresh in accordance with law. The assessee is also directed to file the audit report before the Assessing Officer, CPC, Bangalore for his consideration.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 10th March, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 10.03.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR &
6. गार्ड फाईल/GF.