

IN THE INCOME TAX APPELLATE TRIBUNAL, KOLKATA BENCH "SMC", KOLKATA

**BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER**

**ITA No.114/Kol/2023
Assessment Year: 2014-15**

Ghatal Co-operative Agriculture And Rural Development Bank Ltd.		ACIT, Circle-38, Midnapur
Vill. Kushpata, P.O. Ghatal, West Midnapur-721212.	Vs.	
PAN: AACAG 0645 G		
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Asim Kumar De, AR
Revenue by : Smt. Ranu Biswas, Addl. CIT, Sr. DR

Date of Hearing : 29.03.2023
Date of Pronouncement : 31.03.2023

ORDER

PER SONJOY SARMA, JM:

This appeal filed by the assessee pertaining to A.Y. 2014-15 is directed against the order of Id. CIT(A) dated 30.03.2022 which is arising out of assessment order framed u/s 143(3) of the I.T. Act dated 31.12.2016. The assessee has taken the following grounds of appeal:

"i. Additions made by the ld. AO is to be allowed as deduction u/s 80P as per conditions laid therein.

ii. The ld. AO has arbitrarily added Rs. 98971/- as the assessee received interest from staff welfare fund and interest from staff loan of Rs. 98971/-. Besides that the assessee had earned miscellaneous income for Rs. 85,047/-. These are all exempted income. Whatever income is earned from members exempted u/s 80P of the IT Act. The question of taxing u/s 56 of the IT act, 1961 does not arise as these all income are related to giving loans to members and miscellaneous receipts received from members. The ld. AO has allowed the gross total income of Rs. 2501980/- u/s 80P. But added back Rs. 184018/- as income from other sources and made it taxed which is illegal and opposed to public policy. This income is part and parcel of total income related with members and can never be associated with taxable income and hence pray the same addition of Rs. 184120/- may please be deleted."

2. At the outset, we find that there is a delay of 226 days in filing of the appeal by the assessee. We after perusing the petition for condonation are

convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. Brief facts of the case are that the assessee is a co-operative rural bank and has filed its return of income for the assessment year in question on 02.10.2014 by disclosing income at rupees Nil. The case of the assessee was selected for scrutiny through CASS and noticed u/s 143(2) and 142(1) were issued upon the assessee. In response to such notices, authorized representative of the assessee had appeared before the ld. AO from time to time. In the course of assessment proceedings, the ld. AO noticed that assessee had received interest from staff welfare fund and interest from staff loan totaling to Rs. 98971/- and assessee had also earned miscellaneous income of Rs. 85047/- and these two income had been taken into consideration for deduction u/s 80P of the Act. However, the ld. AO due to want of any reasonable explanation from the assessee added a sum of Rs. 1,84,018/- in the hands of assessee as income from other sources by not allowing any deduction on the alleged sum of Rs. 1,84,018/-.

4. Aggrieved by the above order, assessee preferred an appeal before the ld. CIT(A). However, the ld. CIT(A) dismissed the appeal filed by the assessee.

5. Dissatisfied with the above order, assessee preferred instant appeal before the Tribunal. At the time of hearing, ld. AR of the assessee submitted before this bench that the ld. AO arbitrarily disallowed the claim of assessee and added to the income since all those incomes are related to giving loans to members and miscellaneous income received from members. Therefore, the view taken by the ld. AO is illegal and opposed to the public policy. He further contended that the income which assessee has claimed is part and parcel of total income related with members and can never be associated with taxable income as held by the ld. AO while he framing the assessment order. Therefore, he prayed before this Tribunal that the addition made by the AO may be deleted and consequently order of ld. CIT(A) may also be set aside.

6. On the other hand, ld. DR relied on the order passed by the authority below and objected to the prayer made by the ld. AR of the assessee.

7. We have carefully considered the rival submission in the light of the fact, the assessee has claimed deduction of interest from staff welfare fund and interest income from staff loan totaling of Rs. 98971/- and also had earned miscellaneous income for Rs. 85047/- which represent amounts received from members for giving various services i.e. charges for closing flexi account, fine against non-payment of R/D amount due in time and those income has been duly reflected in its revenue income also. In such a situation, we viewed that income derived from such transactions are eligible for deduction u/s 80P(2)(a)(i) and the interest income earned by the assessee from staff welfare fund and miscellaneous income earned from various services provided to its members are beneficial to the members of the assessee. Therefore, we hold that assessee is eligible for claim deduction u/s 80P(2)(a)(i) of the Act. Accordingly, the grounds raised by the assessee are allowed and set aside the order passed by the Id. CIT(A). We also direct the AO to delete the addition made against the assessee in terms of assessment order dated 31.12.2016 passed u/s 143(3) of the Act.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 31.03.2023.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Kolkata, Dated: 31.03.2023.
 Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Ghatal Co-operative Agriculture And Rural Development Bank Ltd.
2. The Respondent: ACIT, Circle-38, Midnapur.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

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By Order

Assistant Registrar
 ITAT, Kolkata Benches, Kolkata