

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' 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.639/Chny/2022
निर्धारण वर्ष/Assessment Year: 2016-17

AA368 Appakudal Pudupalayam Agri
Co-op. Credit Society, Pudupalayam,
Sakthi Nagar, Erode 638 315.

Vs. The Assistant Director of
Income Tax - CPC,
Bengaluru.

[PAN: AACAA0858K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate [Erode]
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 27.02.2023
घोषणा की तारीख /Date of Pronouncement : 12.04.2023

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 08.07.2022 relevant to the assessment year 2016-17.

2. Brief facts of the case are that the assessee the assessee is a primary agricultural co-operative credit society limited registered under the Tamilnadu Co-operative Societies Act, 1983. The assessee filed the

return of income for the assessment year 2016-17 on 21.02.2018 admitting NIL income, after claiming deduction under section 80P of the Income Tax Act, 1961 ["Act" in short] totalling to ₹.35,91,690/-. The return filed by the assessee was processed under section 143(1) of the Act. Thereafter, the case was selected for scrutiny under CASS under 'limited scrutiny category' for the claim of deduction under Chapter VIA and investments/advances/loans. After following due procedure, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 24.12.2018. In the assessment order, the Assessing Officer has noted that the assessee is a co-operative credit society having "A" class Members as well as "B" class Members as its society's Members. In so far as deposits received from "B" class Members, there is no mutuality and they are only "nominal members". Therefore, by following the judgement in the case of Citizen Co-Operative Society Limited v. ACIT in Civil Appeal No. 10245 of 2017 dated 08.08.2017, the Assessing Officer has held that the assessee is not entitled for claiming exemption under section 80P(2)(a)(i) of the Act and accordingly treated the income under the head "Business & Profession" and disallowed the claim of deduction under section 80P of the Act at ₹.35,91,690/- and brought to tax. On appeal, by considering

the submissions of the assessee and by following various case law including the decisions of the Coordinate Benches of the Tribunal, the Id. CIT(A) determined the allowable deduction under section 80P of the Act and restricted the disallowance made by the Assessing Officer.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the Id. CIT(A) has failed to consider the expenses for qualifying for the deduction under section 80P of the Act.

4. On the other hand, the Id. DR has submitted the Id. CIT(A) has rightly restricted the claim of deduction under section 80P of the Act and confirmed the inadmissible expenses.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the Assessing Officer has disallowed the entire claim of deduction under section 80P of the Act on the ground that the assessee society were providing credit facilities to its "A class members or nominal members" and "B class members or associate members" as the "B class member" does not have any rights and privileges which were given only to the "A class members". However,

by considering various case law placed on record during the course of appellate proceedings and examining the bye laws, annual report, audit report as well as accounts of the assessee, the Id. CIT(A) restricted admissible claim of deduction under section 80P of the Act and confirmed the following claim of the assessee:

Depreciation debited to P & L a/c	:	₹.	2,98,742/-
Provision for NPA	:	₹.	87,518/-
Provision for OD	:	₹.	7,48,088/-
Other provision Gratuity & Bonus	:	₹.	4,40,497/-
Provision for SD	:	₹.	75,807/-
37 disallowance	:	₹.	2,700/-
Total inadmissible	:	₹.	16,53,352/-

6. The Id. CIT(A) has observed that the above inadmissible expenses of ₹.16,53,352/- are not qualify for deduction under section 80P of the Act. Accordingly, the Id. CIT(A) restricted the claim of deduction to ₹.16,53,352/- [₹.35,91,690 – 19,38,338] and allowed the balance claim of deduction of ₹.19,38,338/- under section 80P of the Act. However, the Id. CIT(A) could not give any reason for restricting the claim made by the assessee under section 80P of the Act. The Id. CIT(A) was not able to justify as to why the assessee is not entitled for 80P deduction in respect of certain other claim made by the assessee. Once the Id. CIT(A) came to a conclusion that the assessee is eligible for claiming deduction under section 80P of the Act, he cannot restrict

the claim without giving any reason. Under these facts and circumstances, we are of the opinion that the order passed by the Id. CIT(A) in restricting the claim of the assessee to the tune of ₹.16,53,352/- has to be reversed. Accordingly, we reverse the same and direct the Assessing Officer to allow the entire claim made by the assessee under section 80P of the Act.

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

Order pronounced on 12th April, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 12.04.2023

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.