

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 187/Srt/2023 (Assessment Year 2017-18)

(Physical hearing)

Shree Raj Co-Operative Credit & Consumers Society Ltd., 229, Nilkanth Plaza, Kiran Chowk, Puna Gam, Surat. PAN No. AACTS 7418 Q	Vs.	A.C.I.T., Circle-3(3), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Aakash Bakashwala, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	20/03/2023
Date of hearing	04/05/2023
Date of pronouncement	04/05/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 11/02/2023 for the Assessment Year (AY) 2017-18. The assessee has raised following grounds of appeal:

- "1. That the CIT(A) erred in confirming the disallowance of deduction u/s 80P(2)(d) on interest received from Co-op Bank of Rs. 56,397/-.*
- 2. That the CIT(A) erred in passing ex parte order on dated 11/02/2023 without considering adjournment request dated 08/02/2023.*
- 3. That the addition of Rs. 56,397/- may kindly be deleted.*
- 4. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal."*

2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the appeal of assessee was dismissed by the Id.

CIT(A) in an ex parte order without giving fair and reasonable opportunity of hearing to the assessee. The Id. CIT(A)/NFAC has not passed the order on merit as mandated under Section 250(6) of the Income Tax Act, 1961. The Id. AR of the assessee submits that on the last date of hearing fixed by the Id. CIT(A) on 08/02/2023, the assessee sought adjournment and adjournment was allowed up to 24/02/2023, however, the order was passed on 11/02/2023. The Id. AR of the assessee submits that he has a good case on merit and likely to succeed if they are given opportunity to contest the case on merit. In fact, the grounds of appeal raised by the assessee are covered by a series of decisions of Surat Bench of Tribunal or by the various Hon'ble High Courts that assessee is eligible for deduction of interest received from cooperative bank as the cooperative banks are primarily a cooperative society. Such fact was mentioned in the statement of fact itself, which has not been considered by Id CIT(A).

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that the assessee was given sufficient opportunity by the Id. CIT(A), the assessee has not furnished their written submission. The Id. Sr. DR for the revenue submits that the matter may be restored back to the file of Id. CIT(A)/NFAC for adjudication on merit.
4. I have considered the submissions of both the parties and perused the record carefully. I find that before the Id. CIT(A), the assessee raised a sole issued about the deduction of interest received from cooperative bank

under Section 80)(2)(d) of the Act, such issue is covered by a series of decisions in favour of assessee and some of the decision was relied by the Assessing Officer during the assessment proceedings. The Id. CIT(A) instead of considering the issue on merit, dismissed the appeal on technical ground that the assessee has not furnished any submission. Considering the fact that the Id. CIT(A) passed the ex parte order, therefore, the issue is restored back to the file of Id. CIT(A) to consider the issue afresh and pass the order on merit by the considering the decision of Hon'ble Jurisdictional High Court as mentioned in the assessment order itself in the Surat Vankar Sahakari Sangh Ltd. Vs ACIT in Tax Appeal No. 93 to 96 of 2016 dated 12/07/2016 and the decision of this Tribunal in ITA No. 283/Srt/2019 in the case of Bardoli Vibhag Gram Vikar Co.Op Credit Society Ltd. Vs Pr.CIT order dated 12/05/2021. The assessee is also directed to make the timely compliance and not to seek the adjournment without any valid reasons.

5. In the result, this appeal of assessee is allowed for statistical purposes only.

Order announced in open court on 4th May, 2023 at the time of hearing of appeal.

**Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER**

Surat, Dated: 08/05/2023
**Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat