

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 781/KOL/2022
Assessment Year: 2017-2018**

***Udyan Large Size Multipurpose
Cooperative Society Limited,.....Appellant
Vill. & P.O. Balapur, P.S. Tapan,
Dist. Dakshin Dinajpur-733127,
West Bengal
[PAN: AAAAU3193K]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(4), Balurghat,
Presently, ITO, Verification Unit, Malda,
Ministry of Finance,
Deptt. Of Revenue,
At Satyajit Manch, 3rd Floor, Balurghat,
P.O. Beltala Park, Dist. Dakshin Dinajpur-733103,
West Bengal***

Appearances by:

*Shri Himangshu Kr. Ray, Shri Paban Kr. Ray &
Smt. Sangita Paul, Advocate, appeared on behalf of the
assessee*

*Smt. Ranu Biswas, Addl. CIT, Sr. D.R., appeared on behalf
of the Revenue*

Date of concluding the hearing : February 28, 2023

Date of pronouncing the order : May 09, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2017-18 is directed against the order of

ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 10.11.2022, which is arising out of the order under section 143(3) of the Act dated 19.12.2019 framed by Assessing Officer.

2. So far as Grounds No. 1 & 5 are concerned, they relate to the addition made by the ld. Assessing Officer for unexplained money under section 69A of the Act for the alleged cash deposits during demonetisation period by invoking the provisions of section 115BBE of the Act.

3. We, however, from the perusal of the impugned order, notice that the said addition has already been deleted by the ld. CIT(Appeals) in para 5.7.6 of the impugned order holding that there is no merit in the addition made of Rs.17,60,000/- and the same is hereby deleted. Since the addition of Rs.17,60,000/- made under section 69A of the Act has already been deleted by the ld. CIT(Appeals), wherein the ld. Assessing Officer has wrongly invoked the provisions of section 115BB of the Act, therefore, Grounds No. 1 & 5 become infructuous as already decided in favour of the assessee by the ld. CIT(Appeals).

4. Now remaining Ground No. 2 before us is only with regard to the addition of Rs.9,92,664/-. Facts in brief relating to this are that the assessee, which is a Cooperative Society, formed by its Tribal members and registered under the West Bengal

Cooperative Societies Act, 1973 having Registration No. 69-WD of 1976, is engaged in providing Mini Bank service to its members, Sales of Fertilizer to its Tribal members as per bye-laws, guidelines of Government of West Bengal. In the return of income filed on 26.03.2018 for A.Y. 2017-18, deduction under section 80P has been claimed at Rs.65,844/-. During the course of complete scrutiny under CASS, ld. Assessing Officer noticed that in the Profit & Loss Account, the assessee has claimed miscellaneous income of Rs.9,92,664.28. The ld. Assessing Officer confronted the assessee to explain the nature of the said miscellaneous income, but could not get satisfactory reply, as a result of which, the ld. Assessing Officer treated it as income from other sources. The assessee carried the matter in appeal before the ld. CIT(Appeals), but it again failed to get any relief. Now the assessee is in appeal before the Tribunal.

5. Ld. Counsel for the assessee placed the break-up of miscellaneous income stating that all these income are part of regular activities of the Cooperative Society for which it is established for.

6. On the other hand, ld. D.R. supported the order of both the lower authorities.

7. We have heard the rival contentions and perused the relevant record placed before us. The miscellaneous income of

Rs.9,92,664/- shown in the Profit & Loss Account has been treated by both the lower authorities as income from other sources. The break-up of the miscellaneous income of Rs.9,92,664/- as provided by the assessee during the course of hearing is reproduced below:-

Sl.No	Head of Misce. Income	Amount
1	Salary Grant from Govt.	4,09,898.00
2	Nursing Training grant	3,13,715.00
3	Village Grain Bank grant	30,000.00
4	Honorarium to Sahayika	19,500.00
5	BOD Honorarium from Govt.	27,600.00
6	Adibasi cultural prog. Grant	32,700.00
7	Arrear salary grant	1,23,856.00
8	Training T.A cost received	35,395.00
	TOTAL RS.	9,92,664.00

8. Before us, it has been contended by the ld. Counsel for the assessee that all the above-referred heads of miscellaneous income are part and parcel of the regular activities carried out by the assessee-Society for its Tribal members and cannot be held to be the income from other sources. We have given thoughtful consideration and also gone through the audited financial statement provided by the assessee in the paper book running from pages 42 to 69. We notice that the assessee is working only for the Tribal members and the main purpose of the Society to provide Mini Bank service to its members, Sales of Fertilizer to its Tribal members etc. It is also discernable that various grants are received from the West Bengal State Government. Perusal of page 38 of the paper book also shows that the West Bengal Tribal

Development Cooperative Corporation Limited, which is a Government of West Bengal Undertaking, is an Apex Body over the various types of Societies like that of assessee. Further we find that the miscellaneous income of Rs.9,92,664/- mainly constitutes grant received from the West Bengal Government for various activities as per its registered bye-laws. We do not find any reason to treat any of the element of miscellaneous income enumerated above as income from other sources. Since the alleged sum of Rs.9,92,664/- is the income earned by the Society for the purpose of its objects, the same is eligible for deduction under section 80P of the Act. We thus reverse the finding of Id. CIT(Appeals) and allow Grounds No. 2, 3 & 4 of the assessee directing the Id. Assessing Officer not to treat Rs.9,92,664/- as income from other sources and the same should be considered as income earned by the Society eligible for deduction under section 80P of the Act. Thus Grounds No. 2, 3 & 4 are allowed.

9. Ground No. 6 is general in nature, which does not call for recording of any reason.

10. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on May 9th, 2023.

Sd/-
(Rajpal Yadav)
Vice-President(KZ)

Sd/-
(Manish Borad)
Accountant Member

Kolkata, the 9th day of May, 2023

*Copies to :(1) Udyan Large Size Multipurpose
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*(2) Income Tax Officer,
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Deptt. Of Revenue,
At Satyajit Manch, 3rd Floor, Balurghat,
P.O. Beltala Park, Dist. Dakshin Dinajpur-
733103, West Bengal*

*(3) Commissioner of Income Tax (Appeals),
Income Tax Department, National Faceless
Appeal Centre (NFAC), Delhi*

*(4) Commissioner of Income Tax ,
(5) The Departmental Representative
(6) Guard File
TRUE COPY*

By order

*Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.