

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.573/PUN/2023
निर्धारण वर्ष / Assessment Year : 2016-17

Pradeshik Manorungnalaya Karmachary Sahakari Patha Sanstha, Mental Hospital Compound, Jail Road, Yerwada, Pune- 411006. PAN : AAABP0581H	Vs.	ITO, Ward-7(2), Pune.
Appellant		Respondent

Assessee by : Shri Digambar Surwase
Revenue by : Shri Piyush Kumar Singh Yadav

Date of hearing : 26.05.2023
Date of pronouncement : 29.05.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 15.03.2023 for the assessment year 2016-17.

2. Briefly, the facts of the case are that the appellant is a cooperative society duly incorporated under the provisions of the Maharashtra Co-operative Societies Act, 1960. It is engaged in the business of accepting deposits and providing credits facilities to its

members. The Return of Income for the assessment year 2016-17 was filed on 20.08.2016 declaring total income of Rs.Nil after claiming exemption u/s 80P of the Income Tax Act, 1961 ('the Act'). Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-7(2), Pune ('the Assessing Officer') vide order dated 10.12.2018 passed u/s 144 of the Act denying the exemption u/s 80P, as the assessee had failed to comply with the notices u/s 142(1) of the Act.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned order dismissed the appeal *in liminie* for non-prosecution without dealing with the merits of the case.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. I heard the rival submissions and perused the material on record. On perusal of the impugned order, it would be clear that the NFAC had dismissed the appeal *in limine* for non-prosecution. Now, the law is settled to the extent that the Commissioner of Income Tax (Appeals) is bound to dispose of the appeal on merits even in the case of *ex-parte* orders. The settled positions of law

mandates the Commissioner of Income Tax (Appeals) to dispose of the appeal by adjudicating the issue raised in appeal on merits. In the circumstances, I am of the considered opinion that the NFAC should go into to the merits of the issue in appeal and dispose the appeal. Since the NFAC had not disposed of the matter on merits, I remand the matter to the file of the NFAC for fresh adjudication on merits based on the material available on record.

6. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 29th day of May, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th May, 2023.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.