

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य
एवं
डॉ. मनीष बोरोड, लेखा सदस्य
के समक्ष

**Before
SRI SANJAY GARG, JUDICIAL MEMBER
&
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 12/KOL/2023
Assessment Year: 2019-2020**

***West Bengal State Multipurpose Consumers Cooperative
Federation Limited.....Appellant
[PAN: AAAAW 1196 J]***

Vs.

ACIT, Circle-40, Kolkata.....Respondent

Appearances by:

Sh. Durga Dutta Dubey, FCA, appeared on behalf of the Assessee.

*Smt. Ranu Biswas, Addl. CIT DR, appeared on behalf of the
Revenue.*

Date of concluding the hearing : May 3rd, 2023

Date of pronouncing the order : July 5th, 2023

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2019-2020 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by Id. Commissioner of Income-tax (Appeals)-National

Faceless Appeal Centre (NFAC), Delhi [in short ld. "CIT(A)"] dated 18.11.2022 arising out of the assessment order framed u/s 143(1) of the Act dated 03.01.2021.

2. The assessee is in appeal before the Tribunal raising the following grounds:

"1. For that the learned Commissioner of Income Tax (Appeals) [CIT(A)] is not justified in confirming the order u/s 143(1) making an adjustment of Rs 1,82,65,270/- to the returned income by disallowing claim u/s 80P(2)(c) and 80P(2)(d) of the Income Tax Act, 1961 in the nature and circumstances of the case.

2. For that the learned Commissioner of Income Tax Appeals [CIT(A)] is not justified in relying on the AO statement that the appellant did not file return of income in time without allowing an opportunity to the appellant to rebut the findings of the AO and without verifying the fact that the return of income was filed within the extended due date allowed by CBDT vide circular no, F. No. 225/157/2019/ITA.II dated 27th September, 2019 and thus in the nature and circumstances of the case confirming the disallowance of Rs 1,82,65,270/- being claim of deduction u/s 80P(2)(c) and (d) of Income Tax Act, 1961.

3. For that the appellant prays leave to add, amend and /or to alter any ground of appeal on or before the date of hearing."

3. At the outset, ld. Counsel for the assessee submitted that the assessee Society deserves to succeed on two grounds; firstly, the return of income was filed on 03.10.2019 which was well within the due date u/s 139(1) of the Act since Central Board of Direct Taxes (in short the 'CBDT') extended the due date for AY 2019-20 to 31.10.2019 and therefore, on this ground itself since the return was filed within the due date, the very basis of denying deduction u/s 80P(2)(c) & 80P(2)(d) of the Act is uncalled for. So far as second ground is concerned, it is contended that Central Processing Centre (in short the 'CPC') made the *prima facie* adjustment of

denying the deduction u/s 80P of the Act is going beyond its jurisdiction since the power for doing the same came into effect by the amendment brought into the Finance Act, 2021 from 01.04.2021 in case return of income is filed beyond the due date prescribed u/s 139(1) of the Act.

4. Ld. D/R though supported the orders of both the lower authorities but failed to controvert the contention made by ld. Counsel for the assessee.

5. We have heard rival contentions and perused the records placed before us. We notice that the assessee is an apex State level consumer cooperative Society and controlled by the Government of West Bengal in which State Government holds majority of shares and the other shareholders are District level wholesale consumer cooperative Societies and there is no private share holding. The appellant Society procures and supplies goods to various departments of State Government offices and that the entire material are procured and purchased to implement the policies and programmes of the State Government. Books of accounts are duly audited. During the year deduction u/s 80P of the Act was claimed at Rs. 1,82,65,272/- in the income tax return filed on 03.10.2019. The CPC processed the said return on 03.01.2021 and even though on the first page of the processing sheet extended due date for filing the return is mentioned as 31.10.2019 and the return of income has been filed by the assessee on 03.10.2019 i.e. well within the time limit provided u/s 139(1) of the Act but still the claim u/s 80P of the Act was denied. *Prima facie* it seems that the said action is due to some technical fault and the in-built

commands in the programme for processing the income tax returns. We notice that CBDT issued a circular on 27.09.2019 extending the due date u/s 139(1) of the Act from 30.09.2019 to 31.10.2019. Since the assessee Society is liable to get its books of accounts audited, the normal due date was 30.09.2019 but since an order u/s 119 of the Act has been passed by the CBDT, the due date u/s 139(1) of the Act has been extended from 30.09.2019 to 31.10.2019. As there is no dispute to this fact, we are of the considered view that since the return of income has been filed well within the due date prescribed u/s 139(1) of the Act, the action of the CPC of denying the deduction u/s 80P of the Act is uncalled for. Thus, on this ground itself the finding of ld. CIT(A) is set aside and the grounds raised by the assessee are allowed.

6. Even otherwise, if for academic purpose, it is considered that for the AY 2019-20 the return of income has been filed beyond the due date prescribed u/s 139(1) of the Act, still the CPC was not within its jurisdiction to make any such *prima facie* adjustment disallowing the deduction u/s 80P of the Act since such power was given to the CPC with effect from 01.04.2021.

7. Section 143(1)(a)(v) of the Act as amended from 01.04.2021 provides for the disallowance of deduction claimed u/s 10AA of the Act or under any of the provisions of Chapter 'VI-A' under the heading 'C' – deduction in respect of certain incomes, if the return is furnished beyond the due dated specified u/s 139(1) of the Act. Prior to the amendment made on 01.04.2021 the sub-Clause existed was disallowance of deduction claimed u/s 10AA, 80IA,

80IAB, 80IB, 80IC, 80ID or 80IE of the Act, if the return is furnished beyond the due date specified u/s 139(1) of the Act.

8. From perusal of the above amendment, we notice that to make disallowance u/s 80P of the Act, the CPC was provided the powers for making adjustment with effect from 01.04.2021 in case the return is furnished beyond the due date specified u/s 139(1) of the Act.

9. We, therefore, are of the considered view that on both the grounds i.e. firstly, the assessee has filed the return within the due date prescribed u/s 139(1) of the Act and secondly, such *prima facie* adjustment made by the CPC was beyond its jurisdiction for AY 2019-20, we set aside the finding of ld. CIT(A) and allow the grounds raised by the assessee and direct ld. AO to allow the claim of deduction u/s 80P of the Act at Rs. 1,82,65,272/-. Thus, ground nos. 1 & 2 raised by the assessee are allowed.

10. Ground no. 3 is general in nature which needs no adjudication.

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

Kolkata, the 5th July, 2023.

Sd/-

[Sanjay Garg]
Judicial Member

Sd/-

[Manish Borad]
Accountant Member

Dated: 05.07.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. West Bengal State Multipurpose Consumers Cooperative Federation Limited, Akbar Mansion, P-1, Hide Lane, Bowbazar, Kolkata-700 073.**
- 2. ACIT, Circle-40, Kolkata.**
3. CIT(A), NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata