

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

Before Shri Sanjay Arora, AM & Shri Manomohan Das, JM

ITA No.20/Coch/2023: Asst. Year:2019-2020

Aryanad Service Co-operative Bank Limited, No.593, Bank Building, Aryanand Trivandrum – 695 542. [PAN: AAAAAA9521F]	vs.	The Income Tax Officer Ward 2(3), Trivandrum.
(Appellant)		(Respondent)

Appellant by: Sri. Arun Raj, Adv.  
Respondent by: Sri. Sajit K. Das, CIT-DR

Date of Hearing : 11.07.2023	Date of Pronouncement: 31.07.2023
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**ORDER**

Per Sanjay Arora, AM:

This is an Appeal by the Assessee directed against the Order dated 15.11.2022 by NFAC, Delhi ['CIT(A)' for short], dismissing the assessee's appeal contesting the processing of its return of income for assessment year (AY) 2019-2020 vide Intimation dated 17.06.2020.

2. Sri.Raj, the learned counsel for the assessee, was during hearing unable to explain us, in the absence of the return of income, the adjustment/s made on the processing of the assessee's return, and which led it to appeal before the Id.CIT(A), i.e., the first appellate authority under the Act. He sought time for placing the same on record, and explain the adjustments which, since confirmed in first appeal, are the subject matter of the instant appeal. It was at this stage found that there is no reference thereto, i.e., the said adjustment/s – despite the assessee raising it before him in its grounds of appeal (per Form 35), in the impugned order. The Id. CIT(A) had, instead, after condoning the delay in filing the appeal before him, and admitting it, proceeded to decide the appeal on the basis that it is an appeal against a regular assessment, delineating the scope and ambit of primary agricultural credit co-

operative society (PACS), which the assessee claims itself to be, and on the basis of which it claims deduction u/s.80P(1) r/w.s.80P(2)(a)(i). That is, *de hors* the ground/s raised before him for adjudication. The assessee has in fact been allowed the said deduction on processing u/s. 143(1), albeit at a lower amount, on account of adjustments u/ss.143(1)(a)(i) and 143(1)(a)(ii).

3. Under the circumstances, we only consider it proper to, vacating the said adjudication, set aside the matter for adjudication afresh, i.e., on merits, back to the file of the first appellate authority. The said authority shall confine itself to the grounds raised by the assessee before it, where and to the extent arising out of the Intimation dated 17/6/2020. The power of the first appellate authority, it is trite law, are co-terminus with that of the assessing authority, and would therefore extend to what the said authority could have done, i.e., under the proceedings initiated by the Revenue, unless the scope thereof stands enhanced by following the due process of law. What cannot be done directly, it is well settled, cannot be done indirectly. Where, however, the Id.CIT(A) is of the opinion that he could travel beyond the adjustment/s made under the Intimation under appeal, or the scope of the processing u/s.143(1)(a), he shall first, upon allowing the assessee a reasonable opportunity of being heard in the matter, which was not so in the first instance, do so by rendering his legal findings, conveying thus the legal basis of, or that which informs, his order. That is, this issue, despite our observations expressing our *prima facie* opinion, which may not be regarded as our final adjudication in the matter, is left open. We decide accordingly.

4. In the result, the assessee's appeal is allowed for statistical purposes.

*Order pronounced on July 31, 2023 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963*

Sd/-  
(Manomohan Das)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Cochin; Dated: July 31, 2023

Devadas G\*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(Appeals), Trivandrum.
4. The Pr. CIT concerned.
5. The Sr. DR, ITAT, Cochin.
6. Guard File.

Assistant Registrar  
ITAT/Cochin