

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.819/Chny/2023
निर्धारण वर्ष/Assessment Year: 2020-21

Mahalakshmi PACB Limited,
Gangavalli Taluk, Salem District,
Tamil Nadu 636 105.
[PAN:AAAAM4723B]

Vs. The Income Tax Officer,
Ward I(6),
Salem.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate [Erode]
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 18.10.2023
घोषणा की तारीख /Date of Pronouncement : 10.11.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 12.06.2023 relevant to the assessment year 2020-21.

2. Facts are, in brief, the assessee is a Primary Agricultural Co-operative Credit Society registered under Tamil Nadu Co-operative Societies Act. The assessee filed its return of income for the assessment year 2020-21 on 28.12.2020 admitting NIL income. In the return of

income, the assessee has claimed deduction under section 80P(2)(a)(i) of the Income Tax Act, 1961 ["Act" in short] to the extent of ₹.1, 19,35,430/-. The return was processed under section 143(1) of the Act. The case of the assessee was selected for complete scrutiny and the assessment was completed under section 143(3) r.w.s. 144B of the Act dated 28.09.2022. In the assessment order, the Assessing Officer has noted that the activities of assessee society are entirely that of commercial bank and it has earned interest income at par with other commercial bank. The society has advanced loans, which includes jewel loans, deposit loans, consumer loans, short-term loans, housing loan etc. All such loans have been given for the purposes other than agricultural activities. Thus, the Assessing Officer was of the opinion that it was purely a commercial banking activity and also noted that the rate of interest on various loans was 12% to 14% which is at par with other commercial banks and for agricultural activity; the society has to charge interest at much lower rate. Thus, the Assessing Officer has held that the assessee is not eligible for claiming deduction under the provisions of section 80P(2)(a)(i) of the Act. On appeal, after considering the submissions of the assessee, the Id. CIT(A) confirmed the order of the Assessing Officer.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee is a

Primary Agricultural Co-operative Credit Society and governed by Tamil Nadu Co-operative Societies Act and charging the interest towards loans and advances as per the Tamil Nadu Co-operative Societies Act. It was further submission that the Assessing Officer came to a wrong conclusion that the assessee was carrying commercial activity and denied the deduction claimed under section 80P(2)(a)(i) of the Act.

4. On the other hand, the Id. DR strongly supported the order passed by the Assessing Officer and the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The only issue involved in this appeal is whether the assessee is eligible to claim deduction under section 80P(2)(a)(i) of the Act to the extent of ₹.1,19,35,430/- or not. From the facts available on record, the assessee is a Primary Agricultural Co-operative Credit Society registered under Tamil Nadu Co-operative Societies Act. The activities of the society should be carried in accordance with Tamil Nadu Co-operative Societies Act including advancing loans and charging interest, etc.

6. The case of the Assessing Officer is that the assessee was carrying its functions like commercial bank and therefore, he held that the

assessee was not entitled to claim deduction under section 80(P)(2)(a)(i) of the Act. We find that without examining the issue properly as to whether the assessee has fulfilled the conditions stipulated in the Act for claiming deduction under section 80(P)(2)(a)(i) of the Act or not, the Assessing Officer has proceeded to conclude the assessment by observing that the activities of the society are commercial activities towards charging interest on various loan like commercial bank and on that pretext, the Assessing Officer came to a conclusion that the assessee is not eligible to claim deduction under section 80(P)(2)(a)(i) of the Act. In our opinion, the Assessing Officer was not correct in denying the benefit under section 80(P)(2)(a)(i) of the Act. We also observed that the charging of interest by Co-operative society (assessee), it has to charge as per Tamil Nadu Co-operative Societies Act and not by its own. The assessee society is controlled/ regulated by the Registrar of Societies under Tamil Nadu Co-operative Societies Act and it is not the jurisdiction of the Assessing Officer to look into the matter as to whether the assessee is charging lower rate of interest or higher rate of interest. In case, if there is any violation, for example, if the society is charging higher rate of interest, the Registrar of Societies of Tamil Nadu shall take action and on that ground, the Assessing Officer cannot deny the benefit under section 80(P)(2)(a)(i) of the Act. Under these facts and circumstances of

the case, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to examine as to whether the assessee fulfils the conditions laid down under section 80(P)(2)(a)(i) of the Act and if so, allow the benefit in accordance with law.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 10th November, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 10.11.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.