

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA Nos.716 & 717/Bang/2023
Assessment years : 2016-17 & 2017-18

Jai Bhavani Pattin Sahakar Sangh Niyamit, Kabraji Bajar Nalaband Choor Vijayapur, Vijayapur – 586 101. PAN: AABAJ 6694F	Vs.	The Assessing Officer, National Faceless Assessment Centre, Delhi [NFAC], Delhi. / Income Tax Officer, Ward 1 & TPS, Bijapur.
APPELLANT		RESPONDENT

Appellant by	:	Shri Balachandran, Advocate
Respondent by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	04.12.2023
Date of Pronouncement	:	04.12.2023

ORDER

Per Laxmi Prasad Sahu, Accountant Member

These appeals are filed by the assessee against the separate DIN & Order No.ITBA/NFAC/S/250/2022-23/1054658415(1) & No. ITBA/NFAC/S/250/2022-23/1054658713(1), both dated 27.07.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AYs 2016-17 respectively.

2. The issues raised in these appeals are deduction u/s. 80P(2)(d) for AY 2016-17 and addition u/s. 69A of the Act which is common for both the years. Since both the appeals were heard together, they are disposed of by this common order.

3. The assessee is a co-operative society and did not file return of income u/s. 139(1). Notice u/s. 148 was issued and served for the reason that as per AIR-001 the assessee has deposited cash of more than Rs10 lakhs in a SB account. Notice u/s. 143(2) was issued along with reasons recorded for reopening. The assessee filed reply on 14.3.2022. The AO did not accept the submission of the assessee that it is credit society for members and the cash deposit in bank was out of deposits from the members. The AO noted that assessee failed to copy notice u/s. 142(1) to file necessary documents and did not explain the cash deposited in Savings Bank account. He therefore made addition of cash deposit in bank account u/s. 69A and charged to tax u/s. 115BBE of the Act.

4. The AO also noted that for AY 2016-17 assessee claimed deduction u/s. 80P(2)(d) in the return in response to notice u/s. 148 and the same should have been claimed in the return u/s. 139 of the Act. He therefore disallowed deduction u/s 80P as fresh claim relying on the Hon'ble Supreme Court judgment in the case of M/s. Goetze (India) Ltd. v. CIT [2006] 284 ITR 323 (SC).

5. On appeal, the CIT(Appeals) issued various notices on different dates, but the assessee did not reply to any of the notices. Accordingly, the CIT(Appeals) confirmed the order of the AO and dismissed the appeals of the assessee. Aggrieved, the assessee is in appeals before the ITAT.

6. Before us, the assessee submitted that the assessee was not aware of any notices issued by the CIT(A) and no information was received from the counsel regarding the hearings, hence it could not submit the requisite documents before the CIT(Appeals). The Id. AR prayed for another opportunity to the assessee to substantiate its claim before the AO and he undertook to comply with the notices and file necessary documents in support of the claim.

7. On the other hand, the Id. DR opposed to providing another opportunity to the assessee since the assessee did not comply to the various notices issued by AO and the CIT(A).

8. After perusing the material on record, we note that assessee has deposited cash in the Saving Banks account which has been added u/s. 69A of the Act for want of proper explanation from the assessee for both the years and in the AY 2016-17 the AO has denied the claim made for deduction u/s. 80P in the return in response to notice u/s. 148. Before the authorities below, the assessee has not represented its case in terms of notice issued by the lower authorities. Considering the prayer of the assessee, in the interest of justice, we remit the issues in appeals to the file of Assessing Officer for de novo consideration and

decision as per law, after reasonable opportunity to the assessee. The assessee is directed to comply with the notices issued by the revenue authorities and also intimate the email-id / communication address of the assessee to the department. The assessee is also directed not to seek unnecessary adjournment for early disposal of the cases.

9. In the result, the appeals of the assessee are allowed for statistical purposes.

Pronounced in the open court on this 04th day of December, 2023.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 04th December, 2023.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.