

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

[THROUGH VIRTUAL HEARING AT PUNE]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.62/NAG./2022
Assessment Year 2019-2020

The Income Tax Officer, Ward-4(4), 3 rd Floor, Saraf Chamber, Sadar, Nagpur. PIN – 440 001 Maharashtra.	vs	Nagpur Zilla Parishad Primary Shikshah Sahakari Sanstha Maryadit, 501, Nandanwan Main Road, Nagpur – 440 009. Maharashtra. PAN AAAAN1090L
Appellant		Respondent

For Revenue :	Shri Kailash G. Kanojiya, CIT-DR
For Assessee :	-None-

Date of Hearing :	27.12.2023
Date of Pronouncement :	29.12.2023

ORDER

PER SATBEER SINGH GODARA, J.M. :

This Revenue's appeal for assessment year 2019-2020, arises against the National Faceless Appeal Centre [in short [the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2021-22/1041209690(1), dated 22.03.2022, involving proceedings u/s.143(1) of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

2. The Revenue pleads the following substantive grounds in the instant appeal :

1. *“Whether on the facts and in the circumstances of the case and in Law, the Ld CIT erred in allowing the deduction u/s 80P inspite of the fact that the return was not filed within time allowed u/s 139(1) of the Act.*
2. *Whether on the facts and in the circumstances of the case and in Law, the Ld CIT erred in relying on the decision in the case of Sunil Vishambharnath Tiwari which is ‘per incuriam’ considering the decision of the Hon’ble Supreme Court in the case of Prakash Nath Khanna [2004] 135 Taxman 327 (SC).*
3. *Any other grounds which may be raised at the time of hearing with the permission of the Hon’ble ITAT.”*

3. Learned CIT-DR vehemently reiterated the Revenue’s above extracted pleadings that the CIT(A) has erred in law and on facts in holding the assessee eligible for its sec.80P deduction despite the fact that it had not filed its return within the “due date” prescribed u/sec.139(1) of the Act. Mr. Kanojiya referred to sec.80AC (ii) that the same is in the nature of a mandatory provision which disentitles the assessee from claiming sec.80P deduction and therefore, the CPC’s processing dated 29.05.2020 herein had rightly rejected the assessee’s claim u/sec.143(1)(a)(v) of the Act.

4. We find no merit in the Revenue's instant sole substantive grievance canvassed herein as sec.143(1)(a)(v); for the purpose of disallowing the impugned claim under Chapter-VIA of the Act; has been inserted by the Finance Act 2021 w.e.f. 01.04.2021 carries prospective effect only whereas the assessment year before us is assessment year 2019-2020 and that CPC's processing had rejected the assessee's claim on 29.05.2020. That being the case, we conclude that the impugned disallowance by way of sec.143(1)(a)(v) processing is not sustainable in law. We accordingly decline the Revenue's vehement arguments seeking to revive the sec.80P disallowance herein to the tune of Rs.3,01,74,039/- in very terms. Ordered accordingly.

5. This Revenue's appeal is dismissed in above terms.

Order pronounced in the open Court on 29.12.2023.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER
Pune, Dated 29th December, 2023

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

VBP/-
Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The NFAC, Delhi.
4. The CIT, Nagpur concerned.
5. DR, ITAT, Nagpur Bench, Nagpur.
6. Guard File.

BY ORDER,

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.