

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member**

**ITA No. 413/Ahd/2022  
Assessment Year 2016-17**

The City Centre 1 Commercial Co-op Housing Service Society Ltd. Ahmedabad PAN: AAEAT0076E (Appellant)	Vs	The Income Tax Officer, Ward-1(2)(4), Ahmedabad, (Respondent)
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**Assessee by: Shri Prakash D. Shah, A.R.**

**Revenue by: Shri Purushottam Kumar, Sr. D.R.**

Date of hearing : 10-01-2024  
Date of pronouncement : 24-01-2024

**आदेश/ORDER**

This is an appeal filed against the order dated 02-09-2022 passed by Id. National Faceless Appeal Centre (NFAC), Delhi for assessment year 2016-17.

2. The grounds of appeal are as under:-

***“Ground No 1-Disallowance of Expenses.***

*1. That the complete details, including ledger accounts, bills/vouchers, bank statement, have been furnished but the learned AO and NFAC has not considered the same and the disallowance of expenses is against the facts of the case and*

*therefore the ld. AO should be directed to allow the same. In this regard, its relevant paras are on page 8-16 of the Impugned order of the ld. NFAC and the Paper Book may be verified.*

- 2. The accounts of society are audited by auditors of Co. Op. Societies.*
- 3. The disallowance has been made without issuing show cause notice and copy of the same have been submitted.*
- 4. That the learned NFAC has simply reproduced the observation of the ld. AO and nothing has been commented upon our submission. Refer Para 7 of the order of the ld. NFAC.*
- 5. On the payments made applicable TDS has been deducted.*
- 6. In view of the above facts the disallowance of the expenses are bad in law and is required to allowed in full.*

**Ground 2-Non Granting of Benefit of Concept of Mutuality**

- 1. That the learned NFAC incorrectly dismissed the ground on the basis of the order of others. In the said order, issue of allowance has been decided in favor of the assessee and it has been directed to allow after verification.*
- 2. It is also most respectfully submitted that interest income has been earned from Co Op Bank and therefore the deduction u/s. 80P is also available on the said amount and accordingly the Id. AO be directed.”*

3. The assessee is engaged in association of persons (AOP) filed its return of income for the year under consideration 2016-17 on 21-07-2016 declaring its total income at Rs. nil. The case was selected for scrutiny and notice u/s. 143(2) of the Act was issued and duly served upon the assessee. Notice u/s. 142(1) was issued and the same was served upon the assessee and the A.R. of the assessee filed online submission in response to the notices issued to the assessee. After taking cognizance of the submission of the assessee, the Assessing Officer made addition of Rs. 94,537/- towards lift maintenance

charges, addition of Rs. 2,54,239/- towards site expenses, addition of Rs. 5,15,231/- towards sweeper labour expenses, additions of Rs. 5,93,447/- towards labour expenses in respect of Shri Rams Welfare Association and addition for Rs. 2,11,809/- towards site cleaning expenses.

3. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

4. The ld. A.R. submitted that the submissions and the details were before the Assessing Officer as well as before CIT(A) related to the various expenses including lift maintenance charges, site expenses, sweeper labour expenses, site cleaning expenses and maintenance of society expenses. Ld. A.R. submitted that all these details should have been verified by the Assessing Officer as well as the CIT(A) as these expenses were incurred in respect of sister concern of the assessee and is related to the expenses to maintain the commercial complex. The ld. A.R. further submitted that the parking charges were only to the members of the association of persons i.e. the assessee.

5. The ld. D.R. submitted that the details were before the Assessing Officer but the same needs to be verified and

therefore the matter may be remanded back to the file of Assessing Officer.

6. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee vide submissions dated 27-08-2018 has given summarized income and expenditures regarding maintenance fees received from members as well as expenses such as car parking received from members, gate pass parking income, interest on savings, interest on FD and miscellaneous income. As relates to expenses of maintenance, the assessee has given the bifurcation related to the labour charges, salary expenses, lift maintenance charges, professional fees, security service expenses, site cleaning material site expenses and sweeper labour charges vide letter dated 07-11-2011. From the perusal of these expenses, it appears that the assessee has incurred all these expenses in respect of maintaining the commercial complex and the same is the main object of this association of persons/co-operative society formed for the said members for maintenance. The assessee has given the details of the payment which was made by the assessee and therefore this cannot be treated as non-allowable expenses. The Assessing Officer as well as the CIT(A) was not justified in disallowing these expenses. Thus, ground no. 1 is allowed. As regards ground no. 2 relating to non-granting of benefit of concept of

mutuality regarding interest income earned by the co-operative bank, the same needs to be verified related to deduction u/s. 80P by the Assessing Officer. Hence, the issue is remanded back to the file of Assessing Officer. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Thus, ground no. 2 is partly allowed for statistical purposes

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 24-01-2024

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Ahmedabad : Dated 24/01/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद