

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL

INDORE SMC BENCH, INDORE

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER

ITA No.519/Ind/2023
(Assessment Years:2018-19)

Unnat Krishi Sahkari Sanstha Maryadit Hatpipliya Dewas	Vs.	ACIT-NFAC New Delhi
(Appellant / Assessee)		(Revenue)
PAN: AAAAU3884H		
Assessee by	Shri Venus Rawka, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.02.2024	
Date of Pronouncement	19.02.2024	

ORDER

This appeal by the Assessee is directed against the order dated 30.10.2023 of Commissioner of Income Tax(Appeal), National Faceless Appeal Centre, Delhi for Assessment Year 2018-19. The assessee has raised following grounds of appeal:

“1The Ld. CIT(A) erred in law and on facts of the case passed an order on ex parte basis without giving the assessee the opportunity of being heard.

2 The Ld. CIT(A) erred in law and facts of the case by assessing income on ITR of the invalid return which is construe as not filed return as such assessment made is bad in law.

3 The Ld. CIT(A) has erred in law and facts of the case and assessed the total income at Rs. 45,01,576/- as against the returned income of Nil.

4 The Ld. CIT(A) erred in law and facts of the case and made an addition of Rs. 45,01,576/- on account of section 80P under chapter VI-A of the Income Tax Act, 1961 as is admissible deduction to a co-operative society. The addition therefore made is totally wrong and without considering the facts of the case.

5. That the appellant craves to leave add alter or amend any of the ground at or before hearing.”

2. The Ld. AR of the assessee has submitted that the AO while passing assessment order u/s 144 has disallowed the claim of deduction u/s 80P(2)(d) on account of interest income received from deposit in Cooperative Bank. He has further submitted that this issue is covered by the decisions of this tribunal in favour of the assessee. The CIT(A) has also passed the impugned order ex-parte when there was no participation on behalf of the assessee. Thus, Ld. AR has submitted that the impugned order of the CIT(A) be set aside and the matter may be remanded to the record of the AO for fresh adjudication after considering details of interest income earned on the deposits in the Cooperative Bank and in view of the various decisions of this Tribunal.

3. On the other hand, ld. DR has not raised any serious objection if matter is remanded to the record of the AO for fresh adjudication after considering relevant details and evidence to be produced by the assessee.

4. I have considered the rival submissions as well as relevant material on record. The AO while passing ex-parte assessment order u/s 144 of the Act has denied the claim of deduction u/s 80P(2)(d) of the Act in respect of the interest income of the assessee including interest received from Cooperative Bank and also denied the claim of deduction u/ s 80P in respect of the business income declared by the assessee for want of necessary details and evidence. The CIT(A) has confirmed the additions made by the AO by denying the deduction u/s 80P of the Act in para 5.1 as under:

“5.1. I find that one of the reasons for selection of the case for scrutiny was to verify the claim of deduction under chapter VIA. The appellant did not co-operate with assessment proceedings and the AO disallowed the claim of deduction u/s 80P. During appellate proceedings also the appellant was afforded several opportunities to substantiate its claim of deduction. However, in the absence of any response, I compelled to dismiss the appeal of the appellant. "Vigilantibus non dormientibus iura subveniunt" Laws aid those who are vigilant and not those who sleep.”

5. Thus, the appeal of the assessee was dismissed due to non-prosecution as there was no response by the assessee to the various notices issued by the CIT(A). Since the entire income of the assessee including business income as well as interest income has been assessed to tax by the AO after disallowing deduction u/s 80P of the Act for want of necessary details and the CIT(A) has dismissed the appeal of the assessee for non-prosecution therefore, in the facts and circumstances of the case

and in the interest of justice the impugned order of the CIT(A) is set aside and matter is remanded to the record of the AO for fresh adjudication. The assessee is directed to produce the relevant details and evidences for verification and consideration of the AO. Needless to say the assessee be given an appropriate opportunity of hearing before passing fresh order.

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

Order pronounced in the open court on conclusion of hearing on 19.02.2024.

Sd/-

(VIJAY PAL RAO)

JUDICIAL MEMBER

Indore; दिनांक Dated : 19/02/2024

Patel/Sr. P.S.

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT
(DR)/Guard file.

By order
Sr. Private Secretary

ITAT, Indore