

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, Vice-President &  
Shri Laxmi Prasad Sahu, Accountant Member**

ITA No.94/Bang/2024 : Asst.Year 2016-2017

M/s.Mayura Souharda Credit Co-operative Society Limited "Mayura Complex, Ashok Road Sagar - 577 401 Karnataka <b>PAN : AAEAM2436R.</b>	v.	The Income Tax Office Ward 3 Shimoga.
(Appellant)		(Respondent)

Appellant by : Ms.Sunaina Bhatia, Advocate  
Respondent by : Sri.V.Parithivel, JCIT-DR

<b>Date of Hearing : 14.03.2024</b>	<b>Date of Pronouncement : 14.03.2024</b>
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**ORDER**

**Per George George K, Vice-President :**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 22.11.2023 passed u/s.250 of the Income-tax Act, 1961 ("the Act" hereinafter). The relevant assessment year is 2016-2017.

2. The brief facts of the case are as follows:

The assessee is a Souharda Credit Co-operative Society, registered under the Karnataka Souharda Sahakari Act, 1997. For the assessment year 2016-2017, the return of income was filed on 22.09.2016 declaring 'Nil' income after claiming deduction u/s.80P of the Act amounting to Rs.75,23,872. The assessment was completed u/s.143(3) of the Act vide order dated 20.12.2018, wherein the claim of deduction u/s.80P of the Act was denied. The Assessing

Officer held that the assessee being a Souharda Sahakari Credit Society is not a co-operative society entitled to deduction u/s.80P of the Act. In support of the A.O.'s conclusion, he relied on the ITAT order in the case of Udaya Souharda Credit Co-operative Society v. ITO in ITA No.2831/Bang/2017 (order dated 17.08.2018).

3. Aggrieved, the assessee filed appeal before the first appellate authority. The CIT(A) dismissed the appeal of the assessee *ex parte*. The reasons for deciding the appeal *ex parte* was that the assessee did not respond to the various notices issued from the office of the CIT(A).

4. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal before the Tribunal. The grounds raised before the Tribunal reads as follows:-

*“1. The orders of the authorities below in so far as they are against the appellant are opposed to law, weight of evidence, probabilities, facts and circumstances of the case.*

*2. The learned CIT(A) is not justified in holding that the appellant is not entitled to deduction u/s.80P(2)(a)(i) of the Act with regard to the income derived from activity of providing credit facilities to its members as the appellant was registered under the Karnataka Souharda Sahakari Act, 1997 relying upon the decisions of the Hon'ble ITAT, Bangalore Bench, in the case of Udaya Souharda Credit Co-operative Society in ITA No.2831/Bang/2017 dated 17.08.2019.*

*3. The learned CIT(A) ought to have appreciated that the appellant was also regarded as a co-operative society entitled to deduction u/s.80P(2)(a)(i) of the Act and therefore, the disallowance made ought to have been deleted having regard to the later judgment of the Hon'ble jurisdictional High Court of Karnataka in the case of Swabhimani Souharda Credit co-operative Limited v. Government of India reported in (2020)*

*421 ITR 670 (Kar) under the facts and in the circumstances of the appellant's case.*

*4. The learned CIT(A) is not justified in disposing off the appeal ex-parte without allowing sufficient and real opportunity to the appellant especially since all hearing notices were sent on the secondary email ID belonging to the appellant's erstwhile AR and not the primary email ID of the appellant under the facts and circumstances of the case.*

*5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the cost."*

5. The learned AR relied on the grounds raised.

6. The learned Departmental Representative, on the other hand, supported the orders of the A.O. and the CIT(A).

7. We have heard rival submissions and perused the material on record. The CIT(A) had decided the issue *ex parte* since there was no response to the hearing notice issued from the office of the CIT(A). It is the claim of the assessee that no hearing notice was served in the primary e-mail ID of the assessee. In the interest of justice and equity, we are of the view that one more opportunity ought to be provided to the assessee to represent its case. Accordingly, the issues raised in this appeal are restored to the files of the CIT(A). The CIT(A) shall consider the binding jurisdictional High Court judgment in the case of Swabhimani Souharda Credit Co-operative Limited (*supra*). It is ordered accordingly.

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

Order pronounced on this 14<sup>th</sup> day of March, 2024.

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**VICE-PRESIDENT**

Bangalore; Dated : 13<sup>th</sup> March, 2024.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Bengaluru.
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore