

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.413/PUN./2024
Assessment Year 2021-2022

Adiwasi Dudhg Utpadak Krishi Purak Sangh, Near Market Committee, Near Market Area, Market Road, NANDURBAR – 425 412 Maharashtra. PAN AAAAA1276D	vs.	Income Tax Officer, Ward-1, C/o. Income Tax Office, Opp. MSEB Office, Sakri Road, DHULE – 424 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Manish Mehta

Date of Hearing :	22.03.2024
Date of Pronouncement :	17.04.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2021-22, arises against the Addl./JCIT(A)-1, Bengaluru, Bengaluru's Din and Order No. ITBA/APL/S/250/2023-24/1060348206(1), dated 31.01.2024, 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 assessee pleads the following substantive grounds in the instant appeal :

1. *"The ADDL/JCIT (A)-1 erred in not condoning the delay in filing the Return of Income which was due to the then prevailing Corona (Covid-19) Atmosphere. [Rs.4,05,390/-]*

2. *The ADDL/JCIT (A)-1 should have allowed the deduction under Section 80P available for the Co-operative society considering the fact that the Assessee is eligible for the deduction notwithstanding delay in filing the return of Income. [Rs.4,05,390/-].*
3. *The Appellant craves leave to add, substitute, amend, delete any of the grounds of appeal.”*

3. The Learned DR invited my attention to the impugned lower appeal discussion reading as under :

7. Decision

The submissions of the assessee have been considered and the appeal is adjudicated as below:

7.1.The provisions of section 80P of the Act were substituted by the Finance Act,2018 w.e.f. 01/04/2018.The provisions of section 80P of the Act prior to amendment are reproduced herein below:

“Deduction not to be allowed unless return furnished.

80AC. Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on the 1st day of April, 2006 or any subsequent assessment year, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.”

7.2. The aforesaid provisions were substituted by the Finance Act,2018 w.e.f. 01/04/2018 by the following provisions:

“Deduction not to be allowed unless return furnished.

80AC. Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80- IC or section 80-ID or section 80-IE;

(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading “C.—Deductions in respect of certain incomes”, no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.”

7.3. A bare perusal of the un-amended provision would show that there was no restriction for claiming deduction u/s 80P of the Act even if the return was filed beyond due date as specified u/s. 139(1) of the Act. The restriction was applicable only to the specified sections mentioned in section 80AC of the Act. The scope of section was enlarged by the Finance Act 2018 to include all deductions admissible under Chapter-VIA under the heading "C-Deduction in respect of certain incomes" The substituted section w.e.f. 01/04/2018 would be applicable to assessment year 2021-22 and in respect of deductions claimed u/s. 80P of the Act, as well.

7.5. Also, section 143(1)(a)(v) provides that disallowance of deduction claimed under any of the provisions of Chapter VI-A under the heading 'C.— Deductions in respect of certain incomes' (which includes deduction under section 80P), can be made if the return is furnished beyond the due date specified under sub-section (1) of section 139. This amendment has been introduced with effect from 1-4-2021.

7.6. For the AY 2021-22, the due date of filing of Return of income was extended several times due to the then prevailing Covid-19 atmosphere. The final extended due date was 15.03.2022. In this case, the assessee filed the ITR on 07/11/2022 showing a Returned Income of Rs. 3,82,310/-. Thus, the return was delayed by 237 days. Several extensions of due dates were provided during the said period to help the assesseees. However, the assessee failed to utilise the umpteen opportunities provided by the department. After the amendment of the section 80AC(ii) of the Act, if assessee wants to claim deduction under Chapter VI-A under the heading 'Deduction in respect of certain incomes' he has to file the return of income within the due date as per section 139(1) of the Act but the assessee did not comply with the provisions of section 80AC of the Act. Therefore, he is not eligible for making claim for deduction under section 80P of the Act. The provision of section 80AC of the Act for getting deduction is mandatory to comply.

4. I have gone through the assessee's pleadings and heard the Learned DR's vehement submissions supporting the impugned sec.80P deduction disallowance(s). It emerges from perusal of the case file that the assessee had not submitted its return u/sec.139(1) of the Act within the "due" date. Lower appellate discussion to this effect in para-7.6 hereinabove has given a categorical finding that the assessee had filed its return on 07.11.2022 suffering from 237 days delay. That being the clinching fact, this tribunal is of the opinion that the same could not be taken as a rectifiable mistake u/sec.154 of the Act since requiring detailed adjudication in light of T S Balram, ITO vs. Volkart Bros. [1971] 82 ITR 50 (SC). I thus reject the assessee's instant appeal in very terms with liberty to take recourse to appropriate remedy(ies) of filing regular appeal as per law, if so advised. Ordered accordingly.

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

Order pronounced in the open Court on 17.04.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 17th April, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.