

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 204/Kol/2024
Assessment Year : 2020-21

The Commercial Taxes Directorate Employees Co Op. Credit Society Limited	vs	ADIT, CPC, Bangaore
PAN: AABAT 0564 G		
Appellant		Respondent

Date of Hearing	16.04.2024
Date of Pronouncement	19.04.2024
For the Assessee	Saswati Mitra Dutta & Rajashree Dutta, Advocate
For the Revenue	Archana Gupta, Addl. CIT, Sr. DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2020-21 is directed against the order dated 12.12.2023 passed by the Id. Commissioner of Income-tax, (Appeals) - 8, Mumbai` [hereinafter referred to as 'the 'Id. CIT(A)'].

2. Dissatisfied with the above order, assessee went into appeal before the Id. CIT(A) where the appeal of the assessee was dismissed.

3. Aggrieved by the above order, assessee is in appeal before this Tribunal. At the time of hearing, Id. AR submitted that intimation issued u/s 143(1) of the Act did not mention any reason for disallowing the claim for deduction u/s 80P of the Act. The Id. AR submitted before the bench that the provisions of section 80AC bearing claim of deduction under part C deduction in respect of certain income under Chapter VIA shall apply only in case where assessee fails to make a claim in his return of income. Therefore, the said provision will not applicable to the assessee because the assessee

had made a claim for deduction u/s 80P of the Act in the return of income filed by it.

4. The ld. AR further submitted that the impugned adjustment made by way of disallowance of claim u/s 80P of the Act is beyond the powers of the assessing officer during the year under consideration. The ld. AR invited our attention to the provisions of section 143(1)(a) of the Act submitted that the power to disallow claim u/s 80P has been given to the assessing officer effect from 01.04.2021 by Finance Act, 2021. Prior thereto, the assessing officer can disallow deduction claim under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE only. Accordingly, the ld. DR submitted that the assessing officer was not empowered to disallow claim u/s 80P of the Act for the year under consideration while processing the return u/s 143(1) of the Act.

5. On the contrary, ld. DR supported the order passed by the ld. CIT(A).

6. We have heard the rival contentions and perused the material available on record. We note that the power to make disallowance of deduction under head "C deduction in respect of certain income" under section 80P of Chapter VIA while processing the return u/s 143(1) has been given to the assessing office only by the Finance Act, 2021 with effect from 01.04.2021. Prior to that there was no power available with the AO to disallow the claim made under head "C deduction in respect of certain income" under Chapter VIA of the Act. We, therefore, mentioned above the reasons that the assessing officer could not have disallowed the deduction claimed by the assessee u/s 80P of the Act in respect of assessment year under consideration while processing the return of income u/s 143(1) of the Act. Accordingly, we

set aside the order passed by the ld. CIT(A) on this issue involved and direct the ld. AO to delete the disallowance made u/s 80P of the Act as in the case of assessee.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 19.04.2024.

Sd/-

Sd/-

(Dr. Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 19.04.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- The Commercial Taxes Directorate Employees Co Op. Credit Society Limited, 14, Beliaghata Road, Tangra S.O. Kolkata -700015.
2. Respondent – ADIT, CPC, Bangalore.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata