

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.490/PUN/2024

निर्धारण वर्ष / Assessment Year : 2021-22

Mhasimata Mahila Gramin Bigar Sheti Sahakari Patsanstha Limited Nizampur, Nizampur Sakri, Dhule 411015 Maharashtra PAN : AAEAM9576E	Vs.	ITO, Ward-1, Dhule
Appellant		Respondent

Assessee by : Shri Hemant C. Shah &
Shri Palak Shah

Revenue by : Shri Arvind Desai

Date of hearing : 17.04.2024

Date of pronouncement : 18.04.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 30.11.2023 for the assessment year 2021-22.

2. At the outset, there is a delay of 44 days in filing of the present appeal. The appellant had filed the petition for condonation of the delay stating that the delay had occurred on account of fact that, initially, the Vice Chairman of the appellant society was under the impression that the AO deleted the addition. Later on, when the appellant approached the concerned Chartered Accountant, who after going through the impugned order,

suggested to file an appeal before the Tribunal and hence the delay occurred. It is prayed that the delay in filing the appeal be condoned. I have gone through the contents of the condonation petition and I am satisfied that it is a fit case for condonation of delay. Therefore, the delay of 44 days in filing the appeal is condoned and proceed to dispose of the case on merits.

3. Briefly, the facts of the case are that the appellant is a Co-operative credit society. The Return of Income for the assessment year 2021-22 was filed on 12.10.2022 disclosing total income of Rs.Nil after claiming exemption u/s 80P(d)(a)(i) of the Income Tax Act, 1961 ('the Act') to the tune of Rs.50,26,070/-. The case was selected for scrutiny under CASS. The Assessing Officer observed that the assessee received interest from Hasti Cooperative bank, Maharashtra Gramin Bank and Jalgaon Janata Sahakari Bank Ltd. aggregating Rs.40,32,363/-. Eventually, the AO in his order dated 28.12.2022 taxed the said sum treating the same as 'Income from other source' u/s.56 of the Act. While doing so, he relied on the judgment of Hon'ble Supreme Court in Totagars Cooperative Sale Society in Appeal No.100066/2016, dt. 16.06.2017.

4. Being aggrieved by the above assessment order, an appeal was before the NFAC, who vide impugned order dismissed the appeal of the assessee for non-prosecution.

5. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

6. I heard the rival submissions and perused the material on record. It is an admitted position that the NFAC has dismissed the

appeal of the appellant *ex parte* for non-prosecution. Further, it is a trite law that the NFAC should have dealt with the merits of the issue in appeal, even in the case of *ex-parte* order. From the perusal of para 5 of the impugned order, it would reveal that the NFAC had not gone into the merits of the issue in appeal, merely dismissed the appeal for non-prosecution, which is contrary to the settled position of law. In the circumstances, I am of the considered opinion that it is a fit case for remand of the matter to the file of the NFAC for *de novo* consideration in accordance with law.

7. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 18th day of April, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 18th April, 2024.
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.