

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.493/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Arthwell Nagari Sahakari Patsanstha Limited, Kumbhephal, Prakash Nagar, Ambajogai, Beed, Maharashtra-431 517 PAN : AAAAA8396G	Vs.	ITO, Ward-2, Beed
Appellant		Respondent

Assessee by : Shri Shubham Rathi
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 01.02.2024 for the assessment year 2017-18.

2. Brief facts of the case are that the appellant is a Cooperative Society engaged in the business of providing credit facilities to its members. Return of income for the A.Y. 2017-18 was filed on 07.09.2018 claiming exemption of Rs.38,74,797/- u/s.80P(2)(a)(i) of the Income Tax Act, 1961 ('the Act'). Against the said return of

income, the assessment was completed by the Assessing Officer (AO) vide order dated 24.12.2019 passed u/s.143(3) of the Act at a total income of Rs.6,58,950/-. While doing so, the AO denied exemption u/s.80P of the Act in respect of the interest earned from Bank of Baroda by holding that the said interest income was not earned from the activities of the cooperative society placing reliance on the decision of the Hon'ble Supreme Court in *Totgar's Coop. Sale Society Limited Vs. ITO 322 ITR 283 (SC)*.

3. Being aggrieved by the above assessment order, an appeal was filed before the CIT(A) with a delay of 1047 days. The appellant had filed an explanation seeking the condonation of the said delay by stating that the delay had occurred on account of wrong advice given by the previous consultant one Mr. Dilip Randad not to file appeal. It is only after the advice of Advocate Shubham N. Rathi the appellant had decided to file appeal before the CIT(A) with delay of 1047 days. The Id. CIT(A) (in short 'NFAC) had not condoned the delay by holding that ignorance of law is no excuse.

4. Being aggrieved the appellant is in appeal before the Tribunal in the present appeal.

5. The Id. Authorised Representative submits that the Id. NFAC ought to have condoned the delay as there is a strong case in favour of the appellant on merits. Further he submits that wrong advice given by the previous consultant Mr. Dilip Randad constitutes a reasonable cause for not filing the appeal in time.

6. On the other hand, Id. Sr. DR opposed the submission of the Id. Counsel and prayed for confirming the order of the Id. NFAC.

7. I have heard the rival submissions and carefully perused the material on record. The preliminary issue that arises for my consideration is whether or not the Id. NFAC was justified in not condoning the delay of 1047 days in the facts of the case. On perusal of the explanation filed by the appellant for not filing the appeal before the CIT(A) within the prescribed time, which is extracted at page 2 of the impugned order, I find that the solitary reason given by the appellant is that delay had occurred on account of wrong advice given by the previous consultant Mr. Dilip Randad. It is only on the advice given by Advocate Shubham N. Rathi the appellant had filed the appeal before the CIT(A) with a delay of 1047 days. The Id. NFAC did not condone the delay. He was of the opinion that ignorance of law is no excuse and therefore cannot be a

reason to condone the delay. There is no dispute about the proposition relied upon by the Id. NFAC but however the wrong advice given by the previous consultant Mr. Dilip Randad constitutes a reasonable cause for not filing the appeal within the prescribed time limit. Therefore, I am of the considered opinion that the Id. NFAC ought to have condoned the delay of 1047 days and decided the appeal on merits. Accordingly, I direct the CIT(A) to condone the delay of 1047 days and decide the appeal on merits in accordance with law.

8. In the result, the appeal of 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.