

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH :NAGPUR [VIRTUAL HEARING]
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.Nos.25 & 26/NAG./2023
Assessment Years 2016-2017 & 2018-2019

M/s. Dharni Taluka C-Op Agricultural Purchase & Sale Society Ltd., 00-Sahakar Bhawan, Main Rad, Near Bus Stand, DHARNI – 444 702 Maharashtra PAN AAATD0686P	vs.	The Income Tax Officer, Ward-3, AMRAVATI. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	22.03.2024
Date of Pronouncement :	30.04.2024

ORDER

These assessee’s twin appeals, arise against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s as many Din and Order Nos. ITBA/NFAC/S/250/2022-23/1047699176(1) and 1047679469(1), dated 29.11.2022 and 28.11.2022, for assessment years 2016-17 and 2018-19, involving proceedings u/s.144 and 154 of the Income Tax Act, 1961 (in short “the Act”); respectively.

Case called twice. None appears at assessee’s behest. It is accordingly proceeded ex-parte.

I proceed assessment year-wise for the sake of convenient and brevity.

2. The assessee's former appeal ITA.No.25/NAG./2023 for assessment year 2016-17 raises its sole substantive grievance challenging correctness of both the learned lower authorities action denying sec.80P deduction of Rs.13,10,311/- in the course of assessment dated 18.12.2018 as upheld in the NFAC's detailed discussion. Learned DR strongly supported the same during the course of hearing thereby stating that the assessee had not made the corresponding claim of sec.80P deduction in its sec.139(1) return dated 31.03.2018 filed beyond the due date. It is noticed in this factual backdrop that on the one hand sec.80AC requiring an assessee to file sec.139(1) return before claiming the corresponding specified deduction(s) has been made applicable w.e.f. 01.04.2018 whereas the impugned assessment year is 2016-2017, on the other hand, there is no indication as to whether the assessee had sought the foregoing deduction in "a" return as per sec.80AC(5) of the Act. This clinching issue has nowhere been addressed either by the Assessing Officer or in the lower appellate discussion under challenge. Faced with this situation, it is deemed appropriate to restore the assessee's sole substantive grievance back to the Assessing Officer for his appropriate adjudication as per law, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's risk and

responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. This assessee's former appeal ITA.No.25/NAG./2023 is allowed for statistical purposes in the above terms.

4. Coming to the assessee's latter appeal ITA.No.26/NAG./2023; Mr. Marathe could hardly dispute that the learned lower authorities had declined its sec.80P deduction claim by way of "processing" u/sec.143(1)(a)(v) of the Act for not having filed return within the "due date" prescribed u/sec.139(1) of the Act.

5. It further emerges that the instant issue is no more *res integra* for the precise reason that the Finance Act, 2021 had inserted the necessary amendment to this effect w.e.f. 01.04.2021 carrying prospective operation only whereas we are in assessment year 2018-2019. And that this tribunal's recent coordinate bench order in ITA.No.62/NAG./2022 ITO vs. Nagpur Zilla Parishad Primary Shikshah Sahakari Sanstha Maryadit, Nagpur has rejected the Revenue's very contentions as under :

"3. Learned CIT-DR vehemently reiterated the Revenue's above extracted pleadings that the CIT(A) has erred in law and on facts in holding the assessee eligible for its sec.80P deduction despite the fact that it had not

filed its return within the “due date” prescribed u/sec.139(1) of the Act. Mr. Kanojiya referred to sec.80AC (ii) that the same is in the nature of a mandatory provision which disentitles the assessee from claiming sec.80P deduction and therefore, the CPC’s processing dated 29.05.2020 herein had rightly rejected the assessee’s claim u/sec.143(1)(a)(v) of the Act.

4. *We find no merit in the Revenue’s instant sole substantive grievance canvassed herein as sec.143(1)(a)(v); for the purpose of disallowing the impugned claim under Chapter-VIA of the Act; has been inserted by the Finance Act 2021 w.e.f. 01.04.2021 carries prospective effect only whereas the assessment year before us is assessment year 2019-2020 and that CPC’s processing had rejected the assessee’s claim on 29.05.2020. That being the case, we conclude that the impugned disallowance by way of sec.143(1)(a)(v) processing is not sustainable in law. We accordingly decline the Revenue’s vehement arguments seeking to revive the sec.80P disallowance herein to the tune of Rs.3,01,74,039/- in very terms. Ordered accordingly.*

5. *This Revenue’s appeal is dismissed in above terms.”*

6. I thus adopt judicial consistency to reverse the learned lower authorities action disallowing assessee's impugned deduction claim(s) by way of sec.143(1)(a)(v) "processing" in very terms. The assessee succeeds in it's instant first and foremost legal ground thereby rendering all other pleadings as academic in nature.

7. This assessee's latter appeal ITA.No.26/NAG./2023 is allowed in above terms.

8. To sum-up, the assessee's instant former appeal ITA.No.25/NAG./2023 is allowed for statistical purposes whereas the assessee's latter appeal ITA.No.26/NAG./2023 is allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 30.04.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 30th April, 2024

VBP/-
Copy to

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

//By Order//

//True Copy //

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