

IN THE INCOME TAX APPELLATE TRIBUNAL COCHIN BENCH, COCHIN
BEFORE SHRI SANJAY ARORA, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No.931/Coch/2022
(Assessment Year: 2011-12)

And

Stay Application No. 68/Coch/2022
(Arising out of ITA No.931/Coch/2022)
(Assessment Year: 2011-12)

The Marady Service Co-op. Bank Limited No. E-57, South Marady PO, Muattupuzha, Ernakulam, Kerala-686 673	Vs.	ITO Ward 1, Temple Bypass Road, Thodupuzha, Kerala-676 10
PAN/GIR No. AACAT 5248 C		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	Smt. J M. Jamuna Devi
Date of Hearing	:	14.03.2024
Date of Pronouncement	:	30.04.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), relevant to the Assessment Year ('A.Y.' for short) 2011-12.

2. The assessee has also filed the Stay Application in this matter seeking for stay of recovery of demand raised by the Revenue.

3. The assessee has challenged this appeal on the ground of violation of principles of natural justice and on the disallowances of deduction u/s. 80P of the Act. The assessee has also challenged the reopening of the assessment notice u/s. 148 of the Act.

4. The brief facts are that the assessee is a Co-operative Bank registered under the Kerala Co-operative Societies Act, 1969. The assessee had not filed its return of income for the year under consideration and the assessee's case was reopened by the Id. Assessing Officer ('A.O.' for short) on the reason to believe that the income chargeable to tax has escaped assessment. The Id. A.O. issued notice u/s. 148 of the Act which was duly served upon the assessee. The assessee filed its return of income in response to the said notice, declaring total income at Rs.Nil after claiming deduction u/s. 80P of the Act amounting to Rs.40,77,175/-. The Id. AO issued notice u/s. 142(1) and 143(2) of the Act which were duly served upon the assessee. The Id. A.O. then passed the assessment order, determining total income at Rs.40,77,175/- by making addition/disallowance u/s. 80P of the Act. The Id. A.O. made the impugned addition on the ground that the assessee is a cooperative bank and not a primary agricultural credit cooperative society.

5. Aggrieved the assessee was in appeal before the first appellate authority who vide order dated 14.09.2022 dismissed the appeal filed by the assessee on the ground that the assessee has not been compliant before the Id. CIT(A), inspite of several opportunities granted.

6. The assessee is an appeal before us, challenging the impugned order of the Id. CIT(A).

7. We have heard the learned Departmental Representative ('Id.DR' for short) and perused the materials available on record. It is observed that the assessee has not been compliant before the first appellate authority on several occasions where the Id. CIT(A) has also granted a final opportunity of hearing for the purpose of furnishing the

submission on or before 25.08.2022. In spite of this, the assessee has failed to respond to the final show cause notice, wherein the Id. CIT(A) proceeded to dismiss the appeal filed by the assessee. The assessee prayed that it may be given one more opportunity to present its case before the Id. CIT(A). The Id. DR, on the other hand, vehemently opposed to remanding this issue back to the file of the Id. CIT(A).

8. In the above factual matrix, we are of the considered opinion that owing to the principles of natural justice as well as the fact that the first appellate authority has not decided the issue on the merits of the case, the assessee may be given one more opportunity to present its case before the first appellate authority with the direction to cooperate without any undue delay. The Id. CIT(A) is directed to decide this issue on the merits of the case upon consideration of the submission of both sides. We, therefore, remand all these issues back to the file of the Id. CIT(A).

9. The assessee has also filed a Stay Application in this matter which stands dismissed as infructuous.

10. In the result, the appeal file by the assessee is allowed for statistical purpose and the stay application is dismissed as infructuous.

Order pronounced on 30.04.2024 under rule 24 of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

(Sanjay Arora)
Accountant Member

Mumbai; Dated : 30.04.2024
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Cochin
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Cochin