

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

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.06 & 07/PUN/2024

निर्धारण वर्ष : Assessment Years : 2015-16 & 2017-18

M/s. Jeevan Vikas Nagari Sahakari Patsanstha Maryadit, Gunjalwadi, At Gunjalwadi Post, Rajapur, Sangamner, Ahmednagar – 422 605 Maharashtra PAN : AAAAJ8492J	Vs.	ITO, Ward-5, Ahmednagar
Appellant		Respondent

Assessee by : Shri Sanket Joshi
Revenue by : Shri Ramnath P. Murkunde
Date of hearing : 07.05.2024
Date of pronouncement : 07.05.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the appeals filed by the assessee directed against the separate orders of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 12.10.2023 and 16.10.2023 for the assessment years 2015-16 and 2017-18 respectively.

2. Since the identical facts and common issues are involved in the above captioned appeals, we proceed to dispose of the same by this common order.

3. Brief facts of the case are that the appellant is a Cooperative Society engaged in providing credit facilities to its members. No regular Return of Income under the provisions of section 139(1) of the Income-tax Act, 1961 (hereinafter referred to as 'The Act') was filed. However, the Assessing Officer (AO) formed opinion that income escaped assessment of tax based on the information that the appellant society made cash deposit of Rs.2,23,49,060/- in the savings account maintained with IDBI Bank, Rajapur Branch, Sangamner, Maharashtra, accordingly issued notice u/s.148 of the Act for the A.Y. 2015-16. The appellant neither complied with notice u/s.148 nor with the notice u/s.142(1) of the Act. In the circumstances, the AO was constrained to pass *ex parte* assessment by bringing to tax the cash deposits of Rs.2,23,49,060/- made in the savings account maintained with IDBI Bank, Rajapur Branch, Sangamner vide order dated 11.03.2022 passed u/s.147 r.w.s.144 of the Act.

4. Being aggrieved, an appeal was filed before the CIT(A)/NFAC. Before the CIT(A)/NFAC, the appellant had filed a detailed explanation in support of the sources of the cash deposit explaining that the cash deposits made with IDBI Bank were out of cash balance available as per the books of account. The appellant further contended that addition under the provisions of section 69A can be made only in a case where the assessee is found to be in possession of money, bullion, jewellery

etc., which is not recorded in the books of account. However, the CIT(A)/NFAC confirmed the addition solely on the ground that no return of income had been filed by the appellant society, therefore, not eligible for deduction u/s.80P of the Act.

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

6. The Id. AR submits that the reasoning adopted by the CIT(A)/NFAC while confirming the addition is totally untenable in law, inasmuch as, the issue in appeal is not with regard to the eligibility of the assessee for exemption u/s.80P of the Act. The issue is with regard to the addition of unexplained money under the provisions of section 69A of the Act. He further submits that the assessment proceedings were taken up during the period of prevalence of covid-19 pandemic and therefore, the appellant could not cause any appearance before the Assessing Officer. In the said circumstances, it is prayed that the matter be restored to the file of AO.

7. The Id. Sr.DR on the other hand supports the orders of the lower authorities.

8. We heard the rival submissions and perused the relevant material on record. The Assessing Officer made addition of cash deposits of Rs.2,23,49,060/- made by the appellant in the savings account maintained with IDBI Bank, Rajapur Branch, Sangamner, Maharashtra.

No doubt, the appellant could not cause appearance before the AO to explain the sources of money for the said cash deposit. On appeal before the CIT(A), the CIT(A)/NFAC had dealt with the issue of eligibility of the appellant society for exemption of its income u/s.80P which is not an issue before the AO. Thus, CIT(A)/NFAC had travelled beyond the assessment order and also failed to advert to the written submissions filed before him. Thus, the order passed by the CIT(A)/NFAC suffers from vice of arbitrariness. Therefore, the findings of CIT(A)/NFAC are hereby set-aside/quashed.

9. Further, we find that the assessment proceedings were initiated during the period of outbreak of covid-19 pandemic all over the country. The Hon'ble Supreme Court in the case of Cognizance for Extension of Limitation, In re (2022) 441 ITR 722 (SC) dated 10.01.2022 had taken cognizance of the difficulties faced by the citizens of the country on account of outbreak of covid-19 pandemic, extended the limitation prescribed by various statutes.

10. In the light of mandamus issued by the Hon'ble Apex Court, we are of the considered opinion that the appellant society was prevented by sufficient and reasonable cause from causing appearance before the AO. Therefore, the matter requires to be remanded to the file of AO for *denovo* adjudication of the issues in appeal after affording an

opportunity of being heard to the appellant society in accordance with law.

11. Since the facts and issues involved in the above captioned appeal is identical, therefore, our decision in ITA No.06/PUN/2024 for the A.Y. 2015-16 shall apply *mutatis mutandis* to the appeal of the assessee in ITA No.07/PUN/2024 for the A.Y.2017-18.

12. To sum up, both the captioned appeals of the assessee stands partly allowed for statistical purposes.

Order pronounced on this 07th day of May, 2024.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 07th May, 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, "A" बेंच,
पुणे / DR, ITAT, A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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