



BEFORE HON'BLE SMT ASTHA CHANDRA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 400/PUN/2024

निर्धारण वर्ष / Assessment Year : 2020-21

Rupmata Multistate Co-Operative Credit Society Ltd.

26/671, Rupmata Pride, Samarth Nagar,

Dharashiv-413501

PAN: AABAR4836R

..... अपीलार्थी / Appellant

बनाम / V/s

Income Tax Officer,

Ward-1, Latur[NeAC]

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by: Mr Pratik Sandbhor ['Ld. AR']

Revenue by: Mr Sourabh Nayak ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 10/05/2024

घोषणा की तारीख / Date of Pronouncement : 10/05/2024

आदेश/ ORDER

**PER G. D. PADMAHSHALI, AM;**

This assessee's appeal is instituted against DIN & Order No. ITBA/NFAC/S/250/2023-24/1059087599(1), dt. 27/12/2023 passed u/s 250 of Income Tax Act, 1961 [in short 'the Act'] by National Faceless Appeal Centre, Delhi [in short 'CIT(A)/NFAC'] which in turn arisen out of order of assessment passed u/s 143(3) r.w.s 144B of the Act by the National e-Assessment Centre [in short 'NeAC']



2. Briefly stated facts of the case are that;

2.1 The assessee is a registered multi-state credit co-operative society engaged in the business of providing credit facilities, had filed its return of income [in short 'ITR'] declaring taxable income of ₹720/- after claiming a deduction of ₹32,41,914/- u/s 80P of the Act. The case of the assessee was subjected to complete scrutiny. In the event of assessee's failure to adduce evidential material in support of its claim for 80P deduction against the interest income received/earned from investment, the Ld. AO brought to taxed the entire interest of ₹1,01,91,516/- u/s 56 of the Act treating it as received/earned out of surplus funds invested/re-invested and denied the benefit of section 80P of the Act thereagainst by an assessment framed u/s 143(3) r.w.s. 144B of the Act

2.2 Aggrieved assessee filed a belated appeal against aforestated assessment before first appellate authority u/s 246A(1)(a) of the Act. While dealing with the assessee's appeal, the Ld. CIT(A) provided as much as four opportunities commencing from March, 2023 to December, 2023, however the assessee did not comply and attend none. In absence of any response or the written submission in support of grounds & explaining the reasoning behind the delay, the Ld. CIT(A) culminated the appellate proceedings *ex-parte* for non-prosecution and dismissed the appeal on the ground of limitation.

2.3 Aggrieved by the aforestated *ex-parte* adjudication of first appellate forum, the appellant assessee set-up this appeal alleging the violation of principle of natural justice in the former to the merits thereof.



3. In the course of physical hearing, the Ld. AR reiterating the contents of delay condonation petition/affidavit both dt. 09/05/2024 filed on records has explained the reasons beyond postal delay of 4 days in instituting the present appeal and unsubstantial 62 days delay in instituting appeal before Ld. NFAC. In support of prayer for condonation & remand, it is submitted that, no part of the delay in instituting the present appeal and appeal before the Ld. CIT(A) were intentional or deliberate. The Ld. DR could hardly object the prayer for condonation of aforestated delays in the respective appeals.

4. After hearing to the rival contentions of both the parties on ground number 1; and subject to the provisions of rule 18 of Income Tax Appellate Tribunal Rules, 1963 perused the material placed on records. At the outset, after vouching sufficiency of reasons beyond undeliberate postal delay of four days in instituting this appeal, placing reliance on '*Vijay Vishin Meghani Vs. DCIT & Anr*' reported 398 ITR 250 (Bom) and '*Collector, Land Acquisition, Anantnag and Anr. Vs Ms Katiji and Others*' reported at 167 ITR 5 (SC), we deem it fit to condone the delay in the larger interest of justice echoing that '*none should be deprived of an adjudication on merits unless it is found that the litigant deliberately delayed the filing of appeal.*'

5. We note that, against the order of assessment dt. 28/03/2021 passed u/s 143(3) r.w.s. 144B of the Act, the assessee filed an appeal belatedly with Ld. NFAC on 26/12/2022 i.e. with a delay of 62 days. In absence of any supporting documents explaining the reasoning sufficiently to the satisfaction, the Ld. NFAC was constrained to dismiss the appeal on the ground of limitation.



6. We have vouched the circumstances as explained in para E of the notarised affidavit dt. 09/05/2024 [Sr No. 1234/2024], that the member finance-cum-accounts In-charge who was instrumental in conveying board meetings required for authorising/approving relevant filing of appeals was unavailable owing to his medical exigencies which led to former delays. Further for the same reasons the former affidavit could not be placed during the pendency of appeal before the Ld. NFAC. In these facts and circumstance, we find the aforesaid reasons are sufficient to pardon the delay in filing of appeal before Ld. NFAC. In consequence, without touching remaining seven grounds (as laid in the appeal memo) we deem it fit to remit the matter back to the file of the Ld. NFAC [faceless regime] with a direction to decide the appeal on merits a fresh and pass a speaking order in terms of section 250(6) of the Act after providing three effective opportunities to the assessee. *Ergo* ordered accordingly.

7. In result, the appeal is **ALLOWED FOR STATISTICAL PURPOSE.**

u/r 34 of ITAT Rules, order pronounced in open court on this Friday, 10<sup>th</sup> day of May, 2024

-S/d-

**ASTHA CHANDRA**  
**JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

पुणे / PUNE; दिनांक / Dated : 10<sup>th</sup> day of May, 2024

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

- |                                |                                 |                            |
|--------------------------------|---------------------------------|----------------------------|
| 1. अपीलार्थी / The Appellant.  | 2. प्रत्यर्थी / The Respondent. | 3. The Pr. CIT, Pune       |
| 4. The NFAC / CIT(A) Concerned | 5. DR, ITAT, Bench 'B', Pune    | 6. गार्डफाइल / Guard File. |

आदेशानुसार / By Order  
वरिष्ठनिजीसचिव / Sr. Private Secretary  
आयकरअपीलीयन्यायाधिकरण, पुणे / ITAT, Pune.