

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.257/PUN/2024
निर्धारण वर्ष / Assessment Year: 2018-19

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| Rupmata Zilla Nagari Sahakari Pathsanstha Ltd., Samarth Nagar, Osmanabad, Osmanabad- 413501. PAN : AAAAR9677H | Vs. | ITO, Ward-1, Latur. |
| Appellant | | Respondent |

Assessee by : Shri Pratik Sandbhor
Revenue by : Shri Sourabh Nayak
Date of hearing : 27.05.2024
Date of pronouncement : 05.06.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 18.12.2023 passed by LD CIT(A)/NFAC, Delhi for the assessment year 2016-17.

2. The appellant has raised the following grounds of appeal :-

- "1. On the facts and in the circumstances of the case and in law the ld. CIT(A) ought to have granted sufficient opportunity to the appellant before passing an ex parte order*
- 2. On the facts and in the circumstances of the case and in law the appellant may be granted an opportunity to file its submission before the CIT(A)*
- 3. On the facts and in the circumstances of the case and in law the Assessing Officer erred in assessing the total income at Rs. 4,69,37,065/-*

4. *On the facts and in the circumstances of the case and in law the Assessing Officer erred in disallowing the deduction u/s 80P(2)(a)(i) of the Income Tax Act, 1961 in respect of interest on savings account and deposits made with co-operative banks, co-operative societies and nationalized banks*
5. *On the facts and in the circumstances of the case and in law the Assessing Officer failed to appreciate the fact that the appellants is a co-operative society engaged in activity of providing credit facilities to its members and is duly eligible for deduction u/s 80P(2)(a)(i)/80P(2)(t)(ft) of ' the Income Tax Act, 1961*
6. *On the facts and in the circumstances of the case and in law the Assessing Officer erred in placing reliance on the decision of Hon 'ble Supreme Court in the case of TotagarCo-operative Sale Society Ltd - 188 Taxman 282, in as much as the said case is distinguishable on facts*
7. *On the facts and in the circumstances of the case and in law the Assessing Officer erred in disallowing the deduction u/s 80P on interest made on deposits with other banks without taking cognizance of the binding decisions of Jurisdictional IT AT, Pune.*
8. *On the facts and in the circumstances of the case and in law the Assessing Officer erred in not taking cognizance of the facts that the appellant has been allowed the deduction u/s 80P of the Income Tax Act, 1961 in assessment proceedings u/s 143(3) for A.Y. 2017-18 & 2020-21*

The above ground may be allowed to be altered, amended, modified, deleted etc in the interest of natural justice. ”

3. The facts, in brief, are that the assessee, Rupmata Zilla Nagari Sahakari Patsanstha Ltd. is a credit cooperative society of members, registered under Maharashtra Cooperative Societies Act, operating by accepting deposits from members & lending loans to members. The assessee cooperative society furnished return of income on 29-10-2018 for asstt year 2018-19 declaring total income of Rs.NIL after claiming deduction under section 80P of the IT Act. The case of the assessee was selected for limited

scrutiny, & notices u/s 143(2) & 142(1) of the IT Act were issued on 22-09-2019, 23-11-2020 & 15-01-2021 respectively. After considering the reply of the assessee, the AO denied the deduction u/s 80P(2)(a)(i) & 80P(2)(d) of the IT Act amounting in all to Rs.4,69,37,065/- & vide order dated 30-03-2021 passed the assessment order determining total income at Rs.4,69,37,065/-.

4. Being aggrieved with the above order, assessee preferred first appeal before LD CIT(A)/NFAC. Since the assessee remained absent, LD CIT(A)/NFAC vide order dated 14-12-2023, dismissed the appeal of the assessee.

5. Being aggrieved with the above *ex-parte* order passed by LD CIT (A)/NFAC, assessee is in appeal before this Tribunal.

6. Learned AR submitted before us that LD CIT(A)/NFAC was not justified in dismissing the appeal of the assessee without providing proper opportunity of hearing. It was further submitted that LD CIT(A)/NFAC erred in presuming that the appellant assessee has no evidence or explanations in support of grounds of appeal or against the assessment order, therefore the assessee did not chose to avail the opportunity of hearing provided by him. It was also submitted that all the 3 opportunities were provided on ITBA portal only & not on email. It was submitted that the assessee was under the impression that the notice of hearing would

come through post but it was only uploaded on the portal & due to this fact the assessee could not respond to the notices of hearing issued by LD CIT(A)/NFAC. It was also submitted that in other similar cases of credit cooperative society similar additions have already been deleted by this Tribunal. Under these facts & in the circumstances of the case it was requested before the Tribunal to set-a-side the order passed by LD CIT(A)/NFAC & further requested to direct LD CIT(A)/NFAC to re-adjudicate the appeal on merits after providing reasonable opportunity of hearing to the assessee.

7. Learned DR on the other hand supported the order passed by LD CIT(A)/NFAC & requested to confirm the same.

8. We have heard learned counsels from both the sides & perused the material available on record. We find that LD CIT(A)/NFAC provided total 3 opportunities to the assessee to submit reply in support of grounds of appeal. But it is also apparent that all the 3 opportunities were provided on ITBA portal & regarding notice through email etc nothing was mentioned in the appellate order. As per section 282 of the IT Act proper service is a must which includes notice through email also. Under these facts & in the circumstances of the case, we find force in the argument of the counsel of the assessee that no proper opportunity was

allowed to the assessee. Therefore in the interest of justice we deem it proper to set-a-side the *ex-parte* order passed by ld CIT(A)/NFAC & direct him to re-adjudicate the appeal afresh on the merits of the case as per facts & law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notice issued by LD CIT(A)/NFAC and submit the requisite details on the appointed date without seeking any adjournment under any pretext, failing which the ld CIT(A)/NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 05th June, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 05th June, 2024.

Sujeet

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, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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