

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.256/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2016-17

Rupmata Zilla Nagari Sahakari Pathsanstha Ltd., Samarth Nagar, Osmanabad, Osmanabad- 413501. PAN : AAJFR0354D	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) erred in not condoning the delay in filing of appeal in as much as the appellant received the impugned order dated 29/03/2022 only on 23/08/2022.*

*2. On the facts and in the circumstances of the case and in law the Assessing Officer erred in assessing the total income at Rs.3,79,38,930/-*

3. *On the facts and in the circumstances of the case and in law the Assessing Officer erred in making addition of Rs.3,77,14,712/- in respect of credits in the banks account and Rs. 2,24,215/- without taking cognizance of the fact that the said credits and interest has been offered to taxation in the return of income filed on PAN No. AAAAR9677H.*

4. *On the facts and in the circumstances of the case and in law and without prejudice to the above grounds of appeal the Assessing Officer erred in making addition of Rs. 3,77,14,712/- u/s 69A of the Income Tax Act, 1961 in as much as the said credits are out the activity of providing credit facilities to the members of appellant society*

5. *On the facts and in the circumstances of the case and in law the Assessment Order has been passed contrary to the principle of consistency in as much as the submission of the appellant that the credits in bank account and interest has been offered to tax in return of income filed in respect of PAN No. AAAAR9677H has been duly admitted by the Assessing Officer in the assessment for A. Y. 2017-18*

6. *On the facts and in the circumstances of the case and in law and without prejudice to the above grounds of appeal the addition of Rs. 3,79,38,930/- tantamount to double taxation in as much as the said amount has already been offered to taxation by the appellant in its return of income for A.Y. 2016-17 filed in respect of PAN No. AAAAR9677H.*

*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 Pathsanstha Ltd. is a credit co-operative society registered under Maharashtra Co-operative Societies Act, engaged in providing credit facilities to its members and also to accept deposits from its members. As per the information available with the Department, the assessee had deposited cash to the tune of Rs.3,77,14,712/- in a savings bank account and the assessee was

also found to have received a sum of Rs.2,24,215/- as interest during the assessment year 2016-17. The assessee was also not found to have furnished its return of income for the concerned assessment year 2016-17. Based on this information, the case was reopened by issuing of notice u/s 148 of the Act after obtaining the necessary approval. Notices u/s 142(1) were issued but the assessee did not responded and the assessment was completed u/s 144 r.w.s. 147 r.w.s. 144B of the IT Act assessing total income of the assessee at Rs.3,79,38,927/-. Out of this Rs.3,77,14,712/- was added u/s 69A of the IT Act.

4. Being aggrieved with the above *ex-parte* assessment order, an appeal was preferred before the ld. CIT(A)/NFAC. Since there was delay of 139 days in filing first appeal, ld. CIT(A)/NFAC, vide order dated 18.12.2023, dismissed the appeal of the assessee, without condoning the said delay.

5. Aggrieved with the above order the assessee is in appeal before this Tribunal.

6. Ld. AR submitted before us that there was sufficient and reasonable cause for not submitting the appeal with-in the prescribed time limit. The assessee with the help of an affidavit

submitted that due to inadvertent error PAN No. was allotted in the status of partnership firm (AAJFR0354D) whereas the assessee is a co-operative society. The assessee immediately applied for another PAN in the status of co-operative society which was allotted as AAAAR9677H. The PAN allotted in the status of partnership firm remained idle and the PAN allotted in the status of co-operative society was utilized to file return etc. The Assessing Officer issued notice on the PAN of partnership firm and the assessee unaware with the assessment proceedings could not appear before the AO. Later after completion of the assessment proceedings the AO initiated penalty proceedings & proposes to levy penalty by issuing notice u/s 271(1)(c) of IT Act on 23.08.2022. As soon as the notice u/s 271(1)(c) of IT Act was received by the assessee, the Chartered Accountant of the bank was informed to take appropriate action. The Chartered Accountant advised to file first appeal against the *ex-parte* assessment order on the basis of which penalty u/s 27(1)(c) was initiated. Therefore, the first appeal was filed on 14.09.2022. The counsel of the assessee further submitted that the delay in filing first appeal was not deliberate and there was no mala-fide intention in filing the

first appeal late/belatedly. It was further submitted that ld. CIT(A)/NFAC was not justified in not accepting the contention of the appellant and under the facts and in the circumstances of the case the appeal of the assessee should have been decided on merits of the case after condoning the delay of 139 days. It was also submitted that the PAN No. allotted in the status of partnership firm could not be cancelled due to the fact that proceedings are pending under Income Tax Act. It was therefore requested by the counsel of the assessee to set-a-side the order passed by ld. CIT(A)/NFAC and direct ld. CIT(A)/NFAC to condone the delay and decide the issue in appeal on merits after providing the assessee a reasonable opportunity of hearing.

7. Ld. DR, Shri Sourabh Nayak relied on the order of the ld. CIT(A)/NFAC.

8. We have heard ld. Counsels from both the sides and perused the material available on record. The first appeal of the assessee was dismissed by the ld. CIT(A)/NFAC on the ground of delay of 139 days. The assessee furnished an affidavit wherein it was made clear that the notices were served on the PAN of partnership firm which was not in use and as soon as the penalty notice was

received by the assessee on 23.08.2022 the fact came in the knowledge that an *ex-parte* assessment order has been passed on wrong PAN and then immediately the first appeal was filed on 14.09.2022. It was the contention of the counsel of the assessee that the assessee is regularly filing its return of income under the PAN No.AAAAR9677H and the deposits and interest income which is subject matter in the *ex-parte* assessment order have already been disclosed in the return of income with PAN No.AAAAR9677H. We find force in the arguments of the counsel of the assessee and also satisfied with the reasons mentioned in the affidavit causing the delay in filing the first appeal. It is also found that the assessee is regularly filing its income tax return on the correct PAN of the cooperative society & disclosing complete income considered in *ex-parte* assessment order. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of LD CIT(A)/NFAC with a direction to provide reasonable opportunity of hearing to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. 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 05<sup>th</sup> June, 2024.

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

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 05<sup>th</sup> 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.