

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.422/PUN/2024
निर्धारण वर्ष / Assessment Year : 2019-20

NRB Bearings Sevakachi Pat Sanstha,
Opp. Civil Hospital Samartha Nagar,
Jalna - 431203

PAN : AAAAN4408L

.....अपीलार्थी / Appellant

बनाम / V/s.

Asst. Director of Income Tax CPC

.....प्रत्यर्थी / Respondent

Assessee by : Mr. Piyush Bafna
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 10-06-2024
घोषणा की तारीख / Date of Pronouncement : 12-06-2024

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for assessment year 2019-20 arises against the CIT(A)-4, Chennai's order dated 05.01.2024 passed in DIN and Order No.ITBA/APL/S/250/2023-24/1059396547(1), in proceedings u/s. 250 of the Income Tax Act, 1961; in short "the Act".

Heard both the parties at length. Case file perused.

2. It emerges at the outset with the able assistance coming from both the parties that the CPC herein has issued u/s. 143(1)(a) "intimation" rejecting the assessee's claim of section 80P(2)(a)(i) deduction of

Rs.57,31,798/- for not having filed return within the due date u/s. 139(1) of the Act.

3. Learned DR vehemently argued that the assessee's foregoing section 80P deduction claim has been rightly declined once it had not filed its return within the due date u/s. 139(1) of the Act and therefore, the CPC has rightly treated the same as apparent error u/s. 143(1)(a)(ii) of the Act. We find that this tribunal's recent co-ordinate bench's order in ITA No. 422/NAG/2022 dated 22.03.2024 M/s. Food Corporation of India Employees Co-op. Credit Society Limited Vs. ADIT for A.Y. 2019-20 has rejected the Revenue's very arguments as under :

"2. Mr. Marathe submitted at the outset that both the learned lower authorities and more particularly, the ADIT, CPC, Bangalore's sec.143(1)(a) "processing" dated 22.02.2020 has rightly disallowed the assessee's sec.80P deduction claim of Rs.16,09,780/- for want of filing of it's sec.139(1) return within the "due" date. He sought to buttress the point that such a claim could be disallowed u/sec.143(1)(a)(ii) of the Act by way of "processing" as an instance of "incorrect claim if such incorrect claim is there from any information in the return". Mr. Marathe further quoted sec.80AC as well as [2022] 138 taxmann.com 571 (Madras) Veerappampalayam Primary Agricultural Cooperative Credit Society Vs. DCIT that the instant issue has already been settled in Revenue's favour.

3. I find no merit in the Revenue's arguments in respect of impugned sec.80P deduction disallowance made in assessee's hands. This is for the precise reason that legislature has introduced such a disallowance provision in sec.143(1)(a)(v) dealing with deduction claim(s) provided in Chapter-VI-A of the Act by way of Finance Act, 2021 w.e.f. 01.04.2021 with prospective effect whereas the assessment year herein is 2017-2018 only. So far as the Revenue's case quoting sec.80AC is concerned (supra), it would be very much relevant to observe that once the legislature itself has made the impugned provision in sec.143(1)(a)(v); the same could not have led to the assessee's 80P deduction disallowance in summary "processing". Hon'ble Madras high court's decision in Veerappampalayam Primary Agricultural Cooperative Credit Society (supra), is also found to be distinguishable on facts as their lordships' had dealt with assessment year 2018-2019 vide judgment dated 07.04.2021 thereby not having benefit of the amendment made in the Finance Act, 2021 in foregoing terms. That being the clinching fact that sec.143(1)(a)(v) itself is not applicable in assessee's case specifically dealing with filing of a sec.139(1) return, sub-clause(ii) could not be pressed in action being in the nature of a general provision only. I adopt principles of stricter interpretation as per Commissioner vs. Dilip Kumar And Co. & Ors. [2018] 9 SCC 1 (SC) (FB) to conclude that both the learned lower authorities action disallowing the assessee's sec.80P deduction(s) claim(s) by way of

sec.143(1)(a)(ii) or 143(1)(a)(v) "processing" has to be reversed. Ordered accordingly."

4. We adopt the foregoing detailed reasons mutatis mutandis to accept the assessee's instant sole substantive grievance in very terms. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 12th June, 2024.

Sd/-
(Dipak P. Ripote)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 12th June, 2024.
रवि

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

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune