

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Amitabh Shukla, Accountant Member

आयकर अपील सं./I.T.A. Nos.372 and 375/Chny/2024
निर्धारण वर्ष/Assessment Years: 2016-17 & 2018-19

K 2087 Vanjipalayam Primary
Agricultural Co-operative Credit
Society, 3/373, Vanjipalayam RS,
Mangalam Via, Avinashi Taluk,
Tirupur 641 663.

Vs. The Income Tax Officer,
Ward 2(1),
Tirupur.

[PAN: AAALK1180D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. A. Vijayalakshmi, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 30.05.2024
घोषणा की तारीख /Date of Pronouncement : 05.06.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

Both the appeals filed by the assessee are against separate orders dated 15.12.2023 passed by the Id. CIT(A), National Faceless Appeal Centre [NFAC] Delhi for the assessment years 2016-17 and 2018-19.

2. Since the issue raised in both the appeals are similar and based on same identical facts, with the consent of both the parties, we proceed to hear both the appeals together and pass consolidated order for the sake of convenience.

3. Firstly, we shall take up appeal in ITA No. 372/Chny/2024 AY 2016-17:

4. Ground No. 1 is general in nature and requires no adjudication.

5. Ground No. 2 to 6 raised by the assessee in Form 36 challenging the action of the Id. CIT(A) in confirming the action of the Assessing Officer in denying the benefit under section 80P(2)(a)(i) of the Income Tax Act, 1961 [“Act” in short] of ₹.3,37,834/-.

6. We note that the assessee is a Co-operative Society registered under Tamilnadu Co-operative Societies Act, 1983. The activities of the assessee are controlled by the Bye-law, registered with the Registrar of Co-operative Societies, having geographical operation to Tirupur district. The assessee filed its return of income for the assessment year 2016-17 declaring an income at ₹. NIL, by claiming deduction under section 80P(2)(a)(i) of the Act to an extent of ₹.39,07,187/-. The Assessing Officer asked the assessee to explain how it is eligible for treating other income as business income. It was explained that the said income includes admission fee from members, dividend on the shares maintained with other societies and it is incidental to the activities of the assessee society. The Assessing Officer did not accept

the said submissions and proceeded to add other income to the total income of the assessee by holding that the assessee is not eligible to treat other income as business income. On appeal, the Id. CIT(A) confirmed the same.

7. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us. The Id. AR Ms. A. Vijayalakshmi, C.A. drew our attention to the details of other income which is mentioned in Schedule 19 of the financials of the assessee. The Id. AR argued that all the details therein are relating to members and eligible to claim as business income under section 80P of the Act.

8. The Id. DR Shri AR V. Sreenivasan, Addl. CIT placed reliance on the order of the Id. CIT(A).

9. On perusal of the Schedule 19 as placed before us, the Id. AR made reference to only entrance fees, locker rent, godown agreement, etc. relating to members, but, however, no details were placed on record before us. On perusal of the assessment order, we note that the Assessing Officer did not discuss any details about various entries shown under other income as shown in Schedule 19. It is also brought to our notice that the Assessing Officer, for the assessment year 2020-

21, accepted other income as eligible business income to claim deduction under section 80P(2) of the Act. On perusal of the same, we note that no discussion whatsoever made by the Assessing Officer regarding other income, if any, claimed by the assessee in AY 2020-21. The assessee did not produce any evidence showing the deduction claimed in the assessment year 2020-21 under section 80P(2) of the Act consisting of other income. Therefore, in the interest of justice, we deem it proper to remit the matter back to the file of the Assessing Officer for fresh consideration taking into account the assessment order in AY 2020-21 and pass fresh order in accordance with law. The assessee is at liberty to file evidence, if any, in support of his claim. Thus, the ground raised by the assessee is allowed for statistical purposes.

10. Now, we shall take appeal in ITA No. 375/Chny/2024 for AY 2018-19.

11. Ground No. 1 is general in nature and requires no adjudication.

12. Ground Nos. 2 to 5 raised by the assessee in challenging the action of the Id. CIT(A) in confirming the order of the Assessing Officer in denying deduction under section 80P(2)(a)(i) of the Act.

13. Having heard both the parties and on perusal of the findings of the Assessing Officer in para 8.5 of the assessment order, we note that the Assessing Officer show-caused why claim under section 80P(2) of the Act shall not be denied. There was no response from the assessee to the said show-cause notice and it was observed by the Assessing Officer that the show-cause notice was “bounced” in the latest mail ID of the assessee provided in the return of income. The Id. AR reported that the assessee is ready to prosecute its case before the Assessing Officer, if this Tribunal afford an opportunity. We note that the assessee claimed deduction under section 80P(2) of the Act for an amount which was derived as income by way of interest earned on investments, deposits in co-operative banks. It is also brought to our notice that the said amount is consists of other income. As discussed above, there was no explanation given by the assessee to the Assessing Officer during the assessment proceedings, which is clear from para 8.5 of the assessment order. Before us also, no bifurcation of account detailing interest earned from co-operative banks, co-operative societies and other income filed. Therefore, in the interest of justice, we deem it proper to remit the matter back to the file of the Assessing Officer for fresh consideration and pass fresh order in

accordance with law. The assessee is at liberty to file evidence, if any, in support of his claim. Thus, the ground raised by the assessee is allowed for statistical purposes.

14. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 05th June, 2024 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 05.06.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.