

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No. 730/Bang/2024
Assessment year : 2016-17

Savanoor Primary Agricultural Credit Co-operative Society Ltd., Savanoor, Puttur – 574 202. PAN : AAEAT 1118M	Vs.	The Income Tax Officer, Ward 1, Puttur.
APPELLANT		RESPONDENT

Appellant by	:	Shri Shreehari Kutsa, Advocate
Respondent by	:	Shri Subramanian S., Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	06.06.2024
Date of Pronouncement	:	19.06.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order passed u/s. 263 r.w.s. 143(3) dated 22.2.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2016-17.

2. The issues involved in this appeal is regarding deduction u/s. 80P and cost of funds. Briefly stated the facts of the case are that the AO initially passed the assessment order u/s. 143(3) of the Act on 18.12.2018. Subsequently the order u/s 263 was passed by the PCIT,

Panaji on 30.03.2021 directing the AO for fresh assessment. and the AO passed the OGE order u/s. 143(3) r.w.s. 263 dated 20.03.2022. Accordingly, the AO passed order u/s. 143(3) r.w.s. 263 r.w.s. 144B on 20.03.2022. Meanwhile, the assessee had filed appeal before the ITAT against the order u/s. 263 of PCIT dated 30.03.2021 in ITA No.737/Bang/2022 and the Tribunal by order dated 13.10.2022 restored back the matter to the PCIT for fresh decision.

3. On the other hand, the assessee had also filed appeal against the order u/s. 143(3) dated 18.12.2018 before the CIT(A), Mangalore and he dismissed the appeal of assessee. On further appeal before the ITAT in ITA No.1401/Bang/2019, the Tribunal by order dated 14.08.2019 restored the matter back to the CIT(A) for fresh decision.

4. In the second round of set aside proceedings u/s. 263 r.w.s.254 of the Act, the PCIT passed order on 15.09.2023, against which assessee filed appeal in ITA No.766/Bang/2023. The assessee submitted that the CIT(Appeals) passed order u/s. 250 r.w.s. 254 had already allowed relief to the assessee by order dated 22.02.2024 and hence the appeal before ITAT had become infructuous and sought for withdrawal of appeal. Accordingly, the Tribunal dismissed the appeal of the assessee as withdrawn vide order dated 15.04.2024.

5. The Id. AR filed synopsis on the above facts. After hearing both the sides, we note that the impugned order of the CIT(A), NFAC dated 22.02.2024 has not taken note of the fact of the order of the CIT(Appeals) order passed u/s. 250 r.w.s. 254 dated 22.02.2024

allowing the appeal of the assessee and the Tribunal in ITA No.766/Bang/2023 dated 15.04.2024 dismissing the appeal of the assessee as withdrawn/infructuous. Since the proceedings u/s. 263 order dated 30.03.2021 has been sent back to the PCIT for fresh consideration by the ITAT in ITA No.737/Bang/2022 order dated 13.10.2022, therefore, the subsequent proceedings on the very basis of order u/s 263 dated 30.3.3021 passed by the AO and CIT(A) becomes infructuous. The assessee has filed appeal before us against the order passed by the CIT(A) dated 22.02.2024 against 143(3) r.w.s. 263 dated 20.3.2022. Accordingly, the impugned order and the present appeal is also infructuous, therefore the appeal by the assessee is dismissed as infructuous.

Pronounced in the open court on this 19th day of June, 2024.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th June, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.