

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

I.T.A.No.496/PUN./2024 [E-APPEAL]
Assessment Year 2018-2019

Vishwakarma Suvarnakar Sahakari Patsanstha Ltd., 147, C-Ward, Vishwakarma Bhavan, Bhende Galli, Mahadwar Road, KOLHAPUR - 416 002. Maharashtra. PAN AAAAV0231B (Appellant)	vs.	The Income Tax Officer, Ward-1(1), Indumati Road, Tarabai Park, KOLHAPUR – 416 003. Maharashtra. (Respondent)
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For Assessee :	-None-
For Revenue :	Shri Sourabh Nayak, Addl. CIT

Date of Hearing :	20.06.2024
Date of Pronouncement :	20.06.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal for assessment year 2018-19, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1060907326(1), dated 14.02.2024, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *“On the facts and circumstances of the case and in law the CIT(A), NFAC erred in confirming the disallowance of deduction u/s.80P in respect of the following additions made by the AO to it’s business income, ignoring the instructions in CBDT Circular No.37/2016 dated 02.11.2016.*

Sr.No.	Provisions/Expenses	Amount (Rs.)
1.	Disallowance of expenses under section 40(a)(ia)	3,252
2.	Income chargeable under section 28	1,12,461
3.	Income tax paid under section 40a	13,990
4.	Provision for Bad Debts	2,20,296
	TOTAL	3,49,999

The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”

3. We next note that the NFAC’s impugned lower appellate discussion affirming the assessment findings disallowing the foregoing heads read as under :

5. As regards next ground relating to set off Brought forward unabsorbed depreciation and deduction u/s 80P in respect of expenses and provisions are concern. The assessing officer has identified certain provisions and expenses claimed by the assessee for deduction under section 80P of the Income Tax Act, 1961, which are not allowable as per the provisions of the Act. These provisions and expenses include:

1. Disallowance of expenditure under section 40(a)(ia): ₹3,252/-
2. Income chargeable under section 28: ₹1,12,461/-
3. Income tax paid under section 40a: ₹13,990/-
4. Provisions for Bad Debt: ₹2,20,296/- Total: ₹3,49,999/-

5.1 The assessing officer has reasoned that as per section 37 of the Income Tax Act, only expenditures incurred wholly and exclusively for the purpose of the business or profession are allowed as deductions in computing the income chargeable under the head "Profit and gains of business or profession". Since the aforementioned expenses are not incurred for the purpose of the business carried on by the assessee society, they are not allowable as deductions.

5.2 Therefore, the assessing officer has disallowed these expenses and added them back to the income of the assessee. It is emphasized that no deduction under section 80P is allowable on the provisions that have been disallowed and added back to the income of the assessee. The assessing officer has disallowed above expenses claimed by the assessee under section 80P as they do not meet the criteria of being incurred wholly and exclusively for the purpose of the business or profession. I have considered the submission of the appellant and the appellant has failed to establish that the expenses are for the purpose of business and the provision made is for ascertained liability of the relevant year. In such facts of the case I hold that the above disallowed expenses have been rightly added back to the income of the assessee for taxation purposes. As a result, the second ground taken by assessee is dismissed.

4. Learned DR could hardly dispute the fact that the NFAC's lower appellate discussion has already treated the assessee as eligible for sec.80P deduction. That being the clinching case, we find force in the assessee's sole substantive ground raised herein placing reliance on the CBDT's circular no.27/2016 that such disallowance(s) as the one in hand before us lead to increases the quantum of regular business income itself; which in turn has already eligible for deduction. Faced with the situation, we accept the assessee's instant sole substantive grievance in very terms. Necessary computation shall follow as per law.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 20.06.2024.

Sd/-
[INTURI RAMA RAO]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 20th June, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "B" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.