

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.935/Bang/2024
Assessment Years : 2016-17

Sri Lakshmi Multipurpose Co-operative Society Ltd., Floor-1, Srihari Tower, Kanakadasa Road, Udupi-576 101. PAN – AAKCS 4571 M	Vs.	The Income Tax Officer, Ward – 1&TPS, Udupi.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ravindra Poojary, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Department

Date of hearing	:	20.06.2024
Date of Pronouncement	:	24 .06.2024

ORDER

PER SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

Instant appeal of the assessee is arising from the order passed by the NFAC, Delhi dated 22/03/2024 in DIN No. ITBA/NFAC/S/ 250/2023-24/1063170077(1) for the assessment year 2016-17.

2. Assessee a cooperative society, could not file its return of income for the impugned assessment year. Thereafter, on the basis of an information, revealing that assessee has deposited an amount of Rs.4,24,10,051, AO issued notice u/s 148A to the assessee. The AO,

while framing the assessment, observed that the assessee is not qualified for deduction u/s 80P(2)(a)(i) of the Act, relying upon the judgment of Hon'ble Apex Court in the case of Citizen Co-operative Society reported in 397 the AO framed the assessment and made an addition of Rs.48,53,282/-.

3. Aggrieved with the order of the AO, the assessee filed an appeal before the Id. CIT (A). However, remained unsuccessful, as the Id. CIT(A) dismissed the appeal of the assessee for the want of prosecution.

4. Aggrieved with the order of Id. CIT(A), the assessee preferred present appeal.

5. Before us vide ground No.1 and 2, assessee has challenged the assumption of jurisdiction of the AO u/s 148, on the ground that the income escaped is only 48,53,282/-, which figure is below the threshold limit of Rs 50 lakhs as provided in section 149(1)(b). Ld Counsel for the assessee has relied upon the judgment of Hon'ble Karnataka High Court in the following cases, the proposition that if escaped income is below 50 lakhs then no notice u/s 148 of the Act shall be issued after the expiry of 3 years from the end of the relevant assessment year:-

a) Sanath Kumar Murali Vs. ITO, [2023] 152 taxmann.com 231

b) Pramila Mahadev Tatkase Vs. ITO, [2024] 158 taxmann.com 246 (Kar)

6. The Id. DR relied upon the order of the authorities below.

7. We have heard the rival contentions of both the parties and perused the materials available on record. We observe that admittedly, in this case the escaped income is only Rs.48, 53,282/-.Therefore, in

terms of judgment of Hon'ble jurisdictional High Court in the cases of Sanath Kumar Murali and Pramila Mahadev Tatkase cited (Supra), the AO has erred in assuming jurisdiction under section 148 read with 148A of the Act.

7.1 For the sake of convenience, we deem it appropriate to reproduce the observation of the Hon'ble High Court in these cases:-

- a) Sanath Kumar Murali Vs. ITO, [2023] 152 taxmann.com 231.”

“It is clear that there is a bar prohibiting the issuance of notice under section 148 of I.T. Act if three years has elapsed from the end of the relevant Assessment Year unless the case falls under Clause-(b). Accordingly, no notice under section 148 could be issued after three years from the end of Assessment Year 2016-2017, is subject to the exception of extended period of limitation of three years, but not more than ten years from the end of relevant Assessment Year, if the Assessing Officer has material which would reveal that "the income chargeable to tax" which has escaped the assessment amounts or is likely to amount to Rs. 50.00 lakh rupees or more”

- b) Pramila Mahadev Tatkase Vs. ITO, [2024] 158 taxmann.com 246 (Kar)

“As per the terms of section 149 of the IT Act, notice under section-148 of the IT Act cannot be issued, after three years have elapsed from the end of the relevant assessment year, unless income chargeable to tax which has escaped assessment is likely to amount to Rupees Fifty Lakh or more, and as such, Sri. E. I. Sanmathi, the learned standing counsel for the respondents, does not contest the third limb of the petitioner's case as canvassed by Sri.A Shankar

8. Perusal of the above judgments would show that Hon'ble High Court after analyzing the purport of section 149(1)(b) has clearly laid down that unless the escaped income is above Rs 50 lakhs no action beyond three years could be taken against an assessee. Therefore,

respectfully following the view of the High Court we quash the present proceedings.

9. Since we have already quashed the proceedings the other grounds raised by assessee become academic.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in court on 24th day of June, 2024

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(SHRI PRAKASH CHAND YADAV)
Judicial Member

Bangalore,
Dated:-24th June, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore