

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

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

ITA No.982/Bang/2024
Assessment Years : 2017-18

Kome Koravadi Vividoddesha Sahakari Sangha Niyamitha, NIL Koravadi , Kumbashi Kundapura Taluk, Udupi District – 676 257. PAN – AAAAK 5006 F	Vs.	The Income Tax Officer, Ward - 2, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Akshay K.S, C,A
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for the Department, CIT (DR)

Date of hearing	:	20.06.2024
Date of Pronouncement	:	24.06.2024

ORDER

PER SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER :

The present appeal of the assessee is arising from the order passed by the NFAC, Delhi dated 22/03/2024 inDIN No. ITBA/NFAC/S/250/2023-24/1063205425(1) for the assessment year 2017-18.

2. The assessee is a credit co-operative society formed for providing credit facilities to its members. The assessee had filed its return of

income for the Assessment year 2017-18 on 28.10.2017 declaring total income of Rs. Nil. The assessee case was selected for scrutiny under CASS and the AO served a notice dated 13.08.2018 on the assessee u/s 143(2) of the Act.

2.1 The Id. Counsel for the assessee appeared for the hearing before the AO on 28.08.2018, 30.05.2019, 22.07.2019, 28.08.2019 and 13.11.2019 and also made detailed submissions before the AO. The assessee filed copy of registration certificate, list of members, list of depositors, copy of the Bye laws of society before the AO. The AO concluded the assessment holding as under and making the below additions:-

- a) Disallowing the deduction claimed under section 80P(2)(a)(i) of the Act amounting to Rs.23,13,046/- holding that the assessee has violated the provisions of the Karnataka Co-operative Societies Act and also violated the principles of mutuality based on the view that the assessee has collected deposits and provided loans to its nominal members who are more than 15% of the regular members.
- b) Disallowing interest expense of Rs.9,22,517/- stating that the assessee is following the hybrid system of accounting (i.e., combination of cash system and mercantile system of accounting)
- c) Disallowing provision for expenses of Rs.1,07,486/- holding it to be in the nature of unascertained liability

2.2 The AO concluded the assessment by determining the total income as Rs.33,43,050/- and a demand of Rs.13,69,779/-.

3. Aggrieved with the order of the AO, the assessee filed appeal before the Ld CIT(A) and assailed the order of the Id. AO. However, the Id. CIT(A) could not allow any relief to the assessee.

4. Aggrieved with the order of the Id. CIT(A), the assessed came up before us in appeal and has raised 3 grounds of appeal.

5. Ground No.3 is general in nature, hence no adjudication is required.

6. At the time of hearing, the Id. Counsel for the assessee did not press ground No.1 and ground No.2 and confined its argument to ground No.1.2 and 2.2 stating that the deduction u/s 80P(2)(a)(i) of the Act and 80P is not allowed on the provision for interests expenses and provision for employees retirement fund. If any profits of the assessee to be considered, the same to be considered for granting deduction u/s 80P(2)(a) of the Act.

7. The Id. DR relied on the orders of the authorities below.

8. We have heard the rival submissions and perused the materials available on record. We find force in the argument of the assessee counsel as held by the Hon'ble Bombay High Court in the case of **CIT Vs. Gem plus Jewellery India Ltd reported in 330 ITR 175 CIT**. It is appropriate to grant deduction u/s 80P(2)(a)(i) of the Act on the assessed income, which was enhanced due to disallowance of deduction u/s 80P(2)(a)(i) of the Act on the provision for interest expenses and provision for employees retirement fund. Accordingly, we remit this issue to the file of the AO for re-computing the deduction u/s 80P(2)(a)(i) of the Act after considering this disallowance as income from business and directed accordingly. Hence, the appeal of the assessee is allowed for statistical purposes.

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

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

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(SHRI PRAKASH CHAND YADAV)
Judicial Member

Bangalore,
Dated:- 24 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