

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.4463/MUM/2023
Assessment Year: 2020-21**

M/s. Prabhu Chhaya CHS Ltd Plot No. 9, Prabhu Chhaya CHS Ltd., Bhardawadi Road, Andheri (West), Mumbai - 400058 PAN: AAAJP0442R	Vs.	Centralised Processing Centre/Income Tax Officer, Ward 24(3)(1), Piramal Chamber, Lalbaug, Mumbai - 400012
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Rajesh S. Athavale, A.R.
Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 29.05. 2024
Date of Pronouncement : 26.06. 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 26.10.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2020-21.

2. The Assessee has claimed that the CPC, while processing the return filed by the assessee and disallowing the deduction claimed under section 80P(2)(d) of the Act and before issuing the intimation under section 143(3) of the Act dated 25.11.2021, has not given any opportunity to the Assessee, as mandated in the proviso to section 143(1) of the Act and therefore the assessee preferred an rectification application before the CPC under section 154 of the Act, however, could not get succeeded, which resulted into challenging the order dated 13.07.2022 by filing first appeal before the Ld. Commissioner, who ultimately dismissed the same by holding that the appeal filed against the order under section 154 of the Act is not maintainable.

3. The Assessee, being aggrieved, is in appeal before us.

4. Heard the parties and perused the material available on record. Admittedly, no intimation as prescribed in proviso to section 143(1) of the Act, has been issued to the assessee before making the adjustments and issuing the intimation u/s 143(1) of the Act, therefore, the adjustment made/addition of Rs.1,86,757/- on account of disallowance under section 80P(2)(d) of the Act is unsustainable. Consequently, the same is directed to be deleted.

5. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 26.06.2024.

**Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.