

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.813/MUM/2024
(Assessment Year :2014-15)**

Tridev – II Co. OP. HSG. SOC. Bhakti Marg, Mulund West, Mumbai- 400080	Vs.	The Income Tax Officer – 41(3)(3) Kautilya Bhavan, Bandra Kurla Complex, Mumbai – 400051
PAN/GIR No. AADAT6029Q		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Ms. Kakoli Ghosh
Date of Hearing	27/06/2024
Date of Pronouncement	28/06/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 08/01/2024 passed by Addl. / JCIT(A)-1, Jaipur for A.Y.2014-15 in relation to adjustment made u/s.143(1) disallowing the claim the deduction u/s.80P(2)(d) of Rs.4,40,284/-.

2. We find that ld. CIT(A) has dismissed the appeals on the ground that there was a delay in filing of appeal for almost seven

years. It has been stated that assessee had filed rectification before the CPC on 27/08/2016 but no action was taken by the ld. AO / CPC till date. In a similar situation for A.Y.2019-20 and 2021-22 and 2022-23 rectification application has been accepted and demand has been cancelled on account of disallowance of deduction u/s.80P. However, for the A.Y.2014-15 no such rectification was passed and accordingly, the assessee was under bonafide belief that it will get relief from the CPC. Since assessee was waiting for the rectification which has not been disposed off and accordingly, it cannot be held that there was a reasonable cause or bonafide belief for not filing the appeal in time specially when similar rectification application has been accepted for A.Y. 2019-20 and 2021-22 whereas for the A.Y.2014-15 despite rectification was filed immediately after the intimation was received by the assessee. Thus, we hold that ld. CIT(A) should have condoned the appeal.

3. The assessee being a Coopertative Housing Society and is eligbile for deduction u/s 80P. The CPC has made adjustment u/s.143(1) despite that return of income was filed within the due date and no reasons has been given as to why adjustment has been made. As per the provisions of scope of adjustment u/s.143(1)(a), no disallowance of deduction could have been made u/s.80P for the A.Y.2014-15 as there was no such provision for making disallowance u/s.143(1)(a) because the adjustment which was permissible was with respect to 10AA, 80AIA, 80IAB, 80IB, 80IC, 80ID or Section 80IE. It was only by the Finance Act 2021 w.e.f. A.Y.2021-22, now the prima facie

adjustment is permissible under Chapter VIA if the assessee has not filed the return of income on the due date. Thus, for the A.Y.2014-15 there was no provision for making such adjustment, Accordingly, the adjustment made by the ld. AO is deleted

4. In the result, appeal of the assessee is allowed.

Order pronounced on 28th Jun, 2024.

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 28/06/2024
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai