

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.157/PUN/2024
निर्धारण वर्ष / Assessment Year: 2020-21

Pandit Dindayal Uppaddhya Nagari Sahkari Patpedhi Ltd., Jayawant Chauk, Main Road, Nandurbar- 425412. PAN : AAAAP6277F	Vs.	ITO, Ward-1, Dhule.
Appellant		Respondent

Assessee by : Shri Kishor Phadke
Revenue by : Shri Sourabh Nayak
Date of hearing : 12.06.2024
Date of pronouncement : 03.07.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 29.12.2023 passed by LD CIT(A)/NFAC for the assessment year 2020-21.

2. The appellant has raised the following grounds of appeal :-

"1. The learned CIT(A), NFAC [hereinafter referred to as the learned CIT(A)] erred in law and on facts in sustaining the addition & disallowance of Rs. 1,14,87,271/-, made by the learned AO, Assessment Unit [hereinafter referred to as the learned AO]; without considering the submission and documents submitted during the

appellate proceeding. As such, the order passed by the learned CIT(A) is bad in law.

2. The learned CIT(A) erred in law and on facts in sustaining the addition made by the learned AO, of Rs. 88,00,792/- u/s 68 of the ITA, 1961 for unexplained increase in liabilities. The learned CIT(A) ought to have appreciated that the said liability is on account of various types of deposits kept by the members of appellant society and is in the normal course of its business.

3. The learned CIT(A) erred in law and on facts in sustaining the disallowance made by the learned AO, of Rs. 26,86,479/- for deduction claimed u/s 80P of the ITA, 1961. The learned CIT(A) ought to have appreciated that appellant society is engaged in providing credit facilities to its member and therefore eligible for deduction u/s 80P(2)(a)(i) / 80P(2)(d) of the ITA, 1961.

4. Appellant craves leave to add / alter / modify / amend / delete all / any of the grounds of appeal.”

3. The facts, in brief, are that the assessee is a cooperative credit society registered under Registrar of Cooperative Society, Maharashtra engaged in accepting deposits & advances and providing loans to its members. The assessee filed its return of income on 29.03.2021 declaring total income of Rs.Nil after claiming deduction under Chapter VI of the IT Act. The case was selected under CASS and notices u/s 143(2) and 142(1) of the IT Act were issued but no response was received from the assessee and ultimately show-cause notice u/s 144 of the IT Act was also issued. But no reply was filed hence vide order dated 26.09.2022 the assessment was completed u/s 144 of the IT Act determining

total income of Rs.1,14,87,271/- which includes Rs.88,00,792/- as unexplained difference in liabilities u/s 68 r.w.s. 115BBE of the IT Act.

4. Being aggrieved with the above *ex-parte* assessment order, an appeal was preferred before the ld. CIT(A)/NFAC, who vide impugned order dated 29.12.2023 after considering the submission of the assessee dismissed the appeal of the assessee.

5. Being aggrieved with the decision of the ld. CIT(A)/NFAC, the appellant is in appeal before this Tribunal.

6. Ld. AR submitted before us that the order passed by ld. CIT(A)/NFAC is unwarranted and bad in law. It was further submitted that ld. CIT(A)/NFAC while dismissing the appeal of the assessee has mentioned in his order that even after providing several opportunities to produce evidence, the assessee did not avail of this opportunity & could not produce information on unsecured loans and creditors. While dismissing the second ground of appeal, it was mentioned in the appellate order, that however despite ample opportunities were given during the appellate proceedings, the assessee could not prove as to how the

assessee is eligible for deduction u/s 80P of the IT Act and what is the business activities of the assessee, which is covered u/s 80P of the IT Act. Regarding these observations, it was submitted by ld. Counsel of the assessee that on 10.10.2023 the assessee furnished online response through the e-proceedings before LD CIT(A)NFAC. In this response, the assessee produced detailed information in respect of heads under which the liability was increased. Apart from this, the assessee also filed an application for admitting the additional evidence, because the assessment order was passed *ex-parte* and, therefore, the relevant documents could not be produced before the Assessing Officer during the assessment proceedings. But it is to the utter surprise of the assessee that nowhere in the first appellate order, ld. CIT(A)/NFAC has referred these submission, evidences and documents which were filed through online e-proceedings on 10.10.2023. It was further submitted by ld. Counsel of the assessee that when another notice of hearing was issued by ld. CIT(A)/NFAC on 14.12.2023, the assessee once again furnished all these documents before ld. CIT(A)/NFAC through online E

proceedings. The ld. Counsel for the assessee produced all the acknowledgements before the Bench perusal. It was accordingly submitted by ld. Counsel of the assessee that ld. CIT(A)/NFAC was not justified in not discussing all these documents which were produced before him through online e-proceedings and, therefore, the order passed by ld. CIT(A)/NFAC is unwarranted, illegal and bad in law. He accordingly prayed before the bench to set-aside the order passed by ld. CIT(A)/NFAC and further requested to the Bench to direct LD CIT(A)NFAC to pass the appellate order afresh on merits of the case after considering the documents, submissions and evidences already produced before him through online e-proceedings.

7. Ld. DR supported the orders passed by the subordinate authorities.

8. We have heard the ld. Counsels from both the sides and perused the material available on record. We find the ld. CIT(A)/NFAC issued two notices for appeal hearing on 10.10.2023 and 14.12.2023 respectively and on both the occasions, the assessee furnished reply through online e-proceedings. Copy

of these online replies are also produced before the Bench, wherein, complete details regarding business of the assessee, bifurcation of interest income from cooperative banks & members which is eligible for deduction u/s 80P(2)(d) & 80P(2)(a)(i) respectively and details of all the various heads wherein liabilities have been increased for the period under consideration are available. It is to our surprise also that even Id. CIT(A)/NFAC is acknowledging the fact that the assessee has filed written submissions on both the dates, but still he has not considered those documents & evidences & also did not discuss & refer about them in his appellate order. We also find that in these submissions, the assessee has requested for admission of additional evidences which could not be produced due to *ex-parte* proceedings by Assessing Officer. But, Id. CIT(A)/NFAC without considering such request proceeded to decide the appeal. We therefore, in the interest of justice deem it proper to set-aside the order passed by Id. CIT(A)/NFAC with a direction to decide the appeal of the assessee afresh after providing reasonable opportunity of hearing to the assessee and also after considering the submissions already made

before him through online e-proceedings. Ld. CIT(A)/NFAC shall pass the order as per fact and law after providing reasonable opportunity of being heard to the assessee. We order accordingly. Thus, the grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open Court on 03rd July, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 03rd July, 2024.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.