

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

ITA No.945/Bang/2024
Assessment year : 2016-17

Srisadanand Souharda Pattina Sahakari Niyamit, Talikoti, Near Shri Ambabhavani Temple Kirani Bazar, Talikote, Bijapura – 586 214. PAN : AAHAS 4265R	Vs.	The Income Tax Officer, Ward 1 & TPS, Bijapur.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Prathiba, R., Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	04.07.2024
Date of Pronouncement	:	19.07.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 12.04.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2016-17.

2. The sole and substantive issue raised by the assessee is in regard to deduction u/s. 80(P)(2) of the Act. Briefly stated the facts of the case are that this is second round of proceedings before us and we note that assessee is registered u/s. 6(1) of the Karnataka Souharda Sahakari

Act, 1997 and AO noted that being a Souharda Co-operative Society, assessee is not eligible to claim deduction u/s. 80(P)(2) of the Act. The assessee has violated the principle of mutuality and relied on judgment of Supreme Court in the case of M/s. Totgars' Co-operative Sale Society v. ITO in Civil Appeal No.1622/2010. The AO also noted that assessee has received interest on its investments which was not earned from the members of the society, thus interest income is not attributable to the activities of the society. Accordingly interest earned of Rs.22,13,708 was treated as income from other sources and completed assessment. Aggrieved, the assessee filed appeal before the First Appellate Authority (FAA).

3. The FAA issued notices on different dates but none of the notices were complied by the assessee. Accordingly he passed ex parte order and confirmed the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

4. The Id. AR submitted that notices were not received by the assessee and it might have gone to the spam folder, therefore assessee could not respond to notices issued by FAA. She requested that if a chance is given to the assessee, she undertook to comply to the notices and substantiate the case of the assessee with evidence. She also submitted that assessee is eligible for deduction u/s. 80(P)(2) of the Act on the interest income. However, the AO has not granted deduction under the said provision. The Hon'ble jurisdictional High Court has decided this issue in favour of the assessee regarding

deduction u/s. 80P. Accordingly she requested that the matter may be sent back to FAA for fresh consideration.

5. The Id. DR relied on the order of lower authorities and objected to sending back the matter to lower authorities. He submitted that both the authorities had given sufficient opportunity to the assessee but the assessee did not respond.

6. Considering the rival submissions we note that the assessee has not been granted deduction u/s. 80P(2) as per assessment order passed u/s. 143(3) r.w.s. 254 r.w.s. 144B of the Act dated 27.09.2021 and the interest income has been treated as income from other sources. However, the assessee had claimed deduction u/s. 80P(2)(a)(i) of the Act in its return of income of Rs.6,12,710 before the FAA, but could not respond to the notices issued. The FAA has given opportunities to the assessee as per para 3 of his order and not allowed deduction under any provisions of section 80P. Considering the facts of the case and in the interest of justice, we remit the issue to the CIT(Appeals) for fresh consideration and decision as per law. The assessee is directed to update its email id, communication address and other details and file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 19th day of July, 2024.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th July, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.