

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.905/Bang/2024
Assessment year : 2014-15

The Planters Sahakara Sangha Niyamita, P.B. No.23, Karigowda Colony, B.M. Road, Hassan – 573 201. PAN : AAAAT 0854C	Vs.	The Income Tax Officer, Ward 2, Hassan.
APPELLANT		RESPONDENT

Appellant by	:	Shri Suresh Muthukrishnan, CA
Respondent by	:	Shri S. Subramanian, Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	25.06 .2024
Date of Pronouncement	:	31.07.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 13.03.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2014-15 on the following grounds:-

- “1. The order of the authorities below in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.
2. The authorities below are not justified in making an addition of Rs.43,56,297/- by estimating the interest at 2.5% on

advanced total loans, under the facts and circumstances of the appellant's case.

3. The authorities below have not justified in making an addition of Rs.60,00,000/- being money transferred on account of equalization fund under the facts and circumstances of the case.

4. The authorities below have not justified in disallowing provision on NPA Rs.29,56,697/- being the provision made as per RBI guidelines under the facts and circumstances of the case.

5. The appellant craves leave of your Honour to add, alter, amend, rectify, and delete any of the grounds urged above.

6. For the above and other grounds that may be urged at the time of hearing of the appeal, the appellant humbly prays that the appeal may be allowed, and Justice rendered.”

2. Briefly stated the facts of the case are that the appellant is a co-operative society and filed return of income on 02.10.2014 declaring total loss of Rs.68,88,720. The case was selected for scrutiny and statutory notices issued to the assessee. The primary purpose of the assessee was to benefit the planters who are agriculturists. The AO after examining the documents noted that deduction u/s. 80P was not granted to the assessee and the assessee had also not claimed any deduction in the return of income filed and AO referred to section 80A(5) and denied any deduction. The AO made the following disallowances:-

i) Estimated interest income	Rs.43,56,297
ii) NPA disallowed	Rs.29,56,697
iii) Equalization fund transfer	Rs.60,00,000
iv) Deduction u/s. 80P(2)(a)(i).	

3. Accordingly the AO assessed total income at Rs.71,24,274 and completed the assessment on 27.12.2016. Aggrieved from the above order the assessee filed appeal before the First Appellate Authority (FAA).

4. The case was fixed on various dates and assessee submitted reply. After considering the submissions, the Id. CIT(Appeals) allowed deduction u/s. 80P(2)(a)(i) of the Act, but other disallowances were confirmed. Aggrieved, the assessee is in appeal before the ITAT.

5. The Id. AR of the assessee reiterated the submissions made before the lower authorities and submitted that the revenue authorities wrongly estimated income @ 2.5%, whereas the assessee has not received any income and in regard to transfer on account of equalisation fund, it is a provision which are compulsorily required to be incurred by the assessee. Alternatively he submitted that if the deductions are not allowed to the assessee, then as pr Circular No.37/2016 issued by the CBDT for provisions/expenditures or income added/disallowed by the AO towards business income, these additions/disallowances are eligible for deduction under chapter VI-A. The CIT (A) has allowed deduction u/s 80P(2)(a)(i) on its business income, the assessee is eligible for deduction u/s. 80P(2)(a)(i) of the Act on the business income earned towards providing credit facilities to its members.

6. On the other hand, the Id. DR relied on the order of the lower authorities and he submitted that the matter requires verification

whether the addition/disallowances are related towards business activity of the assessee or it includes any other income which are not directly earned by the assessee as business income or it may be related to income from other sources. Since Circular No.37/2016 as relied by the Id. AR is applicable only if the disallowances/additions are made under the head chapter IV-D profits and gains of business or profession, therefore before granting benefit of above Circular, it requires verification.

7. Considering rival submissions, we note that assessee filed return of income declaring loss of Rs.61,88,720 and it is a cooperative bank and engaged in banking business activity and accordingly declared its income. However, the AO after making estimation of interest income and disallowances, the loss gets converted into income against which assessee filed appeal. The FAA has allowed deduction u/s. 80P(2)(a)(i) of the Act on the income covered u/s. 80P(2)(a)(i). Estimation of income and disallowances made by the AO has been confirmed by the FAA and assessee is unable to prove with cogent material that these are wrongly confirmed by FAA. We do not find any infirmity in the order of the FAA. Therefore, we confirm the order of the FAA. We noted that assessee is eligible for deduction u/s. 80P(2)(a)(i). The Circular No.37/2016 issued by CBDT is applicable to the case of the assessee if the disallowances/additions are related under chapter IV-D profits and gains of business or profession. We are very much agree with the submission of the Id. DR that the entire income of the assessee are related to business income or not is not clear. Therefore for the

limited purpose of verification, we remit the issue back to the file of AO and AO will compute the actual business income earned by the assessee and he will allow the benefit of Circular No.37/2016 and allow deduction u/s. 80P(2)(a)(i) on actual business income earned by the assessee which are assessed under the head profits & gains of business or profession under Chapter VID of the Act.

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

Pronounced in the open court on this 31st day of July, 2024.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 31st 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.