

IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SMT RENU JAUHRI, ACCOUNTANT MEMBER  
ITA No.2054/MUM/2024  
(A.Y.2007-08)

DurgaCoOpCreditSocietyLtd, 2/3 Sukarma Aptt, Prabhat Colony, Gandhi Chowk, Santacruz (E) Mumbai-400055.	Vs.	The ITO – 22(1)(2), Room No. 313, 3 <sup>rd</sup> Flr, Pirmal Chambers, Lal Baug, Parel, Mumbai -400012.
PAN/GIR No. AACCD2499P		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Mr.Ravindra Naik.AR
Respondent by	Ms.Jancy Elizabeth Rani. Sr.DR

सुनवाई की तारीख/Date of Hearing	23.07.2024
घोषणा की तारीख/Date of Pronouncement	24.07.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi / (CIT(A) passed u/sec 144 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- The Ld. CIT (Appeals), NFAC has erred in dismissing the appeal without considering the submission made through e-mail as valid and without giving proper opportunity of being heard.*
- The Ld. CIT (Appeals), NFAC has erred in confirming the disallowance u/s 80P made by the Ld. Assessing Officer.*

3. *The Ld. CIT(Appeals), NFAC has erred in confirming the addition made by Ld. AO on account of adhoc disallowance of expenses.*

4. *The Ld. CIT(Appeals) erred in not considering deduction u/s 80P on enhanced income after additions on account of disallowances.*

5. *Your appellant further reserves the rights to add, amend or alter the aforesaid grounds appeal as they may think fit by themselves or by their representatives*

2. The brief facts of the case are that, the assessee is a cooperative society and has filed the return of income for the A.Y 2007-08 on 31.10.2007 disclosing a total income of Rs. Nil after claiming deduction u/s 80P(2)(d) of the Act. The return of income was processed u/sec 143(1) of the Act and subsequently the case was selected for scrutiny and notice u/sec 143(2) and u/sec142(1) of the Act along with questionnaire are issued. The Assessing Officer (AO) find that in spite of providing adequate opportunity of hearing the assessee could not file any information in support of the claims made in the return of income filed. Therefore considering the information on record, the AO has invoked provisions of Sec. 144 of the Act and denied the claim of deduction u/sec80P2 (d) of the act of Rs.6,95,645/ and similarly made disallowance of expenses @25% of the claim, which worked out to Rs.2,42,006/- and assessed the total income of Rs 9,37,650/- and passed the order u/sec 144 of the Act dated 30.12.2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information/details of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The CIT(A) has issued the notices, fixing the date of hearing on

15.07.2019, 16.01.2020, 10.03.2021, 12.01.2024 & 14.302.2024 referred at Page 3 Para 4 of the order but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on .07.2024.

**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: /07/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt.Registrar)ITAT,  
Mumbai