

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 772/Bang/2024</b>
<b>Assessment Year : 2016-17</b>

Sri Basaveshwara Vividoddesha Sahakara Sangha Niyamitha, Vasavi Mahal Road, Near Bus Stand, Hosadurga - 577 527. <b>PAN: AACAS5404M</b>	<b>Vs.</b>	The Income Tax Officer, Ward - 1, Chitradurga.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Sandeep Chalapathy, CA
Revenue by	:	Shri Ganesh R. Ghale, Advocate, Standing Counsel for Dept.

Date of Hearing	:	04-07-2024
Date of Pronouncement	:	01-08-2024

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 29.02.2024 passed by the Ld.CIT(A)-1, Ludhiana.

**2.** At the outset, the it is submitted by the Ld.AR that the order passed by the Ld.CIT(A) is ex-parte order. It is submitted that two notices that were issued on 15.01.2021 and 16.08.2021 during covid period. The Ld.AR submitted that, thereafter the third notice was issued on 02.02.2024 which was served on an email id which the assessee could not access at the relevant period of time. The Ld.AR thus prayed for the matter to be remanded to the authorities below for considering the issues on merits.

**2.1** On the contrary, the Ld.DR though objected to the submissions of the Ld.AR, could not controvert the submissions made by him.

We have perused the submissions advanced by both sides in the light of records placed before us.

**3.** It is noted that post the covid period assessee was issued only one notice of hearing from the office of the Ld.CIT(A). The issue involved in the present facts on merits is regarding disallowance of deduction claimed u/s. 80P(2)(a)(i) of the act. The assessing officer dismissed the claim of the assessee placing reliance on the decision of *Hon'ble Supreme Court* in case of *Citizen Co-operative Society Ltd. vs. ACIT* reported in (2017) 84 taxmann.com 114.

**3.1** In our considered opinion, subsequent decision by *Hon'ble Supreme Court* in case of *Mavilayi Service Co- operative Bank Ltd. v. CIT* reported in 431 ITR 1 and *Kerala State Co-operative Agricultural and Rural Development Bank Ltd. vs. AO* reported

in (2023) 154 taxmann.com 305 is to be considered based on the evidences filed by the assessee. We accordingly, remit this issue to the Ld.AO for carrying out necessary verification and to consider the claim of assessee in accordance with law and having regard to the decisions of *Hon'ble Supreme Court (supra)* as well as decisions by this *Tribunal* on identical issues. Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

**Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.**

**In the result, the appeal filed by the assessee stands partly allowed.**

**Order pronounced in the open court on 01<sup>st</sup> August, 2024.**

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 01<sup>st</sup> August, 2024.  
/MS /

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

By order

Assistant Registrar,  
ITAT, Bangalore