

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

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

आयकर अपील सं. / ITA No.86/PUN/2023
निर्धारण वर्ष / Assessment Year: 2018-19

Shri Dhokeshwar Gramin Bigarsheti Sahakari Patsanstha Maryadit, 1, Takil Dhokeshwar, Parner, Ahmednagar- 414304. PAN : AACAS1229C	Vs.	PCIT-1, Pune.
Appellant		Respondent

Assessee by : Shri Prasad S. Bhandari
Revenue by : Shri Keyur Patel

Date of hearing : 08.08.2024
Date of pronouncement : 12.08.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This is recalled matter. Vide order dated 12.06.2024 in M.A. No.258/PUN/2023 for the assessment year 2018-19 filed against the order of the Tribunal in ITA No.86/PUN/2023 dated 24.03.2023 (appeal filed by the assessee) was recalled for limited

purpose to adjudicate the ground no.2 in respect of NPA provision of Rs.42,51,668/- debited in the Profit & Loss Account.

2. LD counsel appearing for the assessee submitted before us that LD PCIT also directed to revise the assessment order on the basis of NPA provision of Rs.42,51,668/-, which was debited in the P&L Account, but in the original assessment order the AO failed to disallow the above provision as the same was not allowable as per section 28 to 43B of the IT Act, hence LD PCIT directed to disallow this NPA provision. LD counsel further submitted that the direction of LD PCIT to disallow the NPA provision will not increase the taxable income of the assessee. It was submitted that CBDT has issued Circular No.37/2016 dated 02-11-2016, wherein it was directed to allow chapter VIA deduction to the resultant income increased due to additions/ disallowances made by the Assessing Officer during course of assessment proceedings. It was therefore submitted that the taxable income of the assessee will not increase even if the NPA provision of Rs.42,51,668/- is disallowed & added back to the income of the assessee, because the resultant business income will

again qualify for chapter VIA deduction u/s 80P(2)(a)(i) of the IT Act. It was therefore requested before the bench to set-aside the order passed by LD PCIT u/s 263 of the IT Act.

3. LD DR fairly accepted that the circular above referred is there & is applicable to the instant case.

4. We have heard LD Counsels from both the sides & perused the material available on record. We find force in the arguments of the LD counsel that in the light of Circular No.37/2016 dated 02-11-2016, the assessee is entitled to claim chapter VIA deduction u/s 80P(2)(a)(i) of the IT Act on the addition of Rs.42,51,668/- which is going to increase its business income, which is deductible u/s 80P(2)(a)(i) of the IT Act. Therefore, we are of the considered opinion that the direction issued by LD PCIT in the order passed u/s 263 of the IT Act will only result in an academic exercise & hence the order cannot be said to be prejudicial to the interest of revenue. We therefore set-aside the order passed by LD PCIT u/s 263 of the IT Act directing to revise the assessment order. Thus, the ground no.2 raised in the appeal is also allowed.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 12th August, 2024.

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

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 12th August, 2024.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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