

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

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

ITA No. 1198/Bang/2024
Assessment year : 2016-17

Karavali Souharda Credit Cooperative Limited, No.2550/2, Prathik Complex, 6 <sup>th</sup> Main, MCC A Block, Davangere – 577 004. <b>PAN : AAAAK 4258M</b>	Vs.	The Income Tax Officer, Ward 1(3), Davangere.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ramanagowda S. Gowdar, Advocate
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	01.08.2024
Date of Pronouncement	:	21.08.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the order dated 25.09.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2016-17.

2. At the outset, there is a delay of 209 days in filing the appeal before the Tribunal. The assessee has filed affidavit stating that the order of the CIT(Appeals) was not served on the assessee and the assessee was unaware about it. The appellant could not see the

proceedings in the e-filing portal and raised grievance on 18.11.2023, subsequently the grievance was closed by the AO on 10.4.2024. After much correspondence, in the last week of April, 2024 the appellant could know that his appeal has already been dismissed by the CIT(A). and subsequently the appeal was filed with a delay of 209 days which is due to technical glitches in the e-filing portal which is beyond the control of the appellant and therefore condonation of delay is requested.

3. After hearing both the parties, it is observed that there are sufficient reasons for the delay and following the judgment of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471, delay in filing the appeal before the Tribunal is condoned.

4. Briefly stated the facts of the case are that the assessee is a Souharda Credit Cooperative and derives income from the banking activity, capital gain and other sources. It filed return of income on 22.09.2016 admitting total income at NIL. The case was selected for scrutiny and statutory notices issued to the assessee. The assessee submitted reply as called for. The AO noted from the documents furnished that the assessee derived income of Rs.52,51,302 and claimed deduction u/s. 80P on the entire income and declared taxable income at Nil. In this regard, show cause notice was issued to the assessee. The assessee's claim was that the society is registered under the Karnataka Souharda Sahakari Act and is eligible for deduction u/s.

80P(2)(a)(i) of the Act and reliance was placed on the judgment of coordinate Bench of Tribunal in the case of M/s. Udaya Souharda Credit Coop. Society in ITA No.2831/Bang/2017 dated 17.8.2018. The AO noted that the judgment of Hon'ble jurisdictional High Court on similar points has not been accepted and it has preferred appeal before the Hon'ble Supreme Court and the matter is pending there. The AO also noted that the assessee has different classes of members and they have no equal rights and violated the principle of mutuality and following the judgement of Hon'ble Apex Court in the case of Citizen Co-operative Society Ltd. vs ACIT reported in [2017] 84 taxmann.com 114 (SC) disallowed the deduction claimed u/s 80P of Rs.52,51,302. Aggrieved from the above order the assessee filed appeal before the Id. CIT(Appeals).

5. The Id. CIT(Appeals) gave opportunity to the assessee, but the assessee did not avail any of the same, accordingly the CIT(Appeals) after relying on various judgments decided the issue on the basis of documents available before him and confirmed the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

6. The Id. AR The Id. AR reiterated the submissions made before the lower authorities and submitted that the issue is squarely covered in favour of the assessee by jurisdictional High Court judgment wherein it is held that society under Karnataka Souharda Sahakari Act is eligible for deduction u/s. 80P. However the AO has not accepted only on the basis of that revenue has not accepted the judgment and it is

pending with Apex Court. He also submitted that the reasons for not complying the notices of CIT(Appeals) as per affidavit submitted and requested if a chance is given to the assessee, she undertook to respond to the notices and substantiate the case of the assessee with evidence and requested that the matter may be sent back to CIT(Appeals) for fresh consideration.

6. The Id. DR relied on the order of lower authorities and submitted that the CIT(Appeals) gave various opportunities to the assessee in spite of which the assessee did not avail sufficient time provided by the FAA and objected for giving a chance to the assessee.

7. Considering the rival submissions, we note that the assessee is registered under the Karnataka Souharda Sahakari Act and filed return of income declaring Nil income and claimed deduction u/s. 80P on the entire income of Rs.52,51,302. The AO has not allowed deduction u/s. 80P(2) to the assessee even after it has been held by the jurisdictional High Court in the case of Sri Matha Vividoddesha Pathina Souharda Sahakari Niyamitha vs UOI reported in [2022] 134 taxmann.com 62 (Karnataka) that the assessee which was a Souharda Sahakari Niyamitha, a society registered under Karnataka Souharda Sahakari Act, 1997, was a co-operative society within meaning of section 2(19) and it would be entitled to claim for exemption under section 80P. The Id. CIT(Appeals) has decided the issue ex parte for non-prosecution by the assessee. Considering the prayer of the assessee 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.

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

Pronounced in the open court on this 21<sup>st</sup> day of August, 2024.

Sd/-  
( KESHAV DUBEY )  
JUDICIAL MEMBER

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 21<sup>st</sup> August, 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.