

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "B" CHANDIGARH**

**BEFORE SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos. **67,68,69,70,71/CHD/2024**

निर्धारण वर्ष / A.Ys : 2009-10, 2012-13, 2013-14,
2014-15 & 2018-19

The C.D. Co-operative Credit Society Ltd., VPO Gohar, AT Dari, P.O. Chail Chowk, Tehsil – Chachiot, Distt. Mandi (HP).	Vs	The DCIT, Circle - Mandi, Mandi (HP).
स्थायी लेखा सं./PAN NO: AAABT2301D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri B.M.Monga, Advocate and
Shri Rohit Kaura, Advocate

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr.DR

सुनवाई की तारीख/Date of Hearing : 27.08.2024
उद्घोषणा की तारीख/Date of Pronouncement : 03.09.2024

PHYSICAL HEARING

आदेश/Order

PER A.D.JAIN, VICE PRESIDENT

The above mentioned appeals have been preferred by the assessee against the separate orders dated 29.11.2023 (in ITA 71/CHD/2024 dated 30.11.2023) passed by the Id. Commissioner of Income Tax (Appeals) NFAC, Delhi pertaining to assessment year 2009-10, 2012-13, 2013-14, 2014-15 and 2018-19 respectively.

2. As the facts and issues in all these appeal are common, therefore, these were heard together and are being disposed of by a common order. The facts are taken from ITA No. 67/CHD/2024. The following grounds have been taken :

1. *That the order of Ld. CIT(A) is against the law and facts of the case.*
2. *That the Learned CIT(A), has erred in passing the order in gross violation of principles of Natural Justice by denying the opportunity of hearing through video conferencing despite repeated requests of the appellant and thus the order is against the well settled law, against the mandatory statutory provisions & of National Faceless Appeal Scheme.*
3. *That the Learned CTT(A), has grossly erred in passing the order without following the binding directions of this Hon'ble Court and thus passing the order beyond its jurisdiction and without considering the charts, documents, evidences and submissions of the assessee and thus, passed the order in totally non reasoned and non-speaking manner.*
4. *That the Ld. CIT(A) is not justified in upholding the disallowance of the interest earned from nationalized banks by holding that 80P(2)(a)(1) is not applicable on the interest earned from nationalized banks, without considering the evidences and submissions of appellant by simply relying on the judgment, of Hon'ble Supreme Court in the case of Totgars, Cooperative Sales society limited, 322 ITR 283 (SC) which judgment is not applicable to the case of the appellant.*
5. *That the learned CTT(A) is not justified in upholding the disallowance of the interest earned from nationalized banks by holding it to be as 'income from other sources' instead of 'business income' eligible for deduction u/s 80P(2)(a)(i), ignoring the vital fact that income generated from interest is directly attributable and necessarily interlinked to the business of assessee society and fall under the head income from business or profession, as per well settled law.*
6. *That the Learned CIT(A), has erred in upholding the illegal order passed by the Ld. AO, wherein the Ld. AO has mentioned that no documentary evidence were provided in support of its claim that deposits made in the nationalized banks are indeed were in the course of carrying out the activity of providing credit facility to its member by totally ignoring the evidences, documents already on record and vital fact that the only business of the assessee was to receive funds from its members and then to advance them as loans etc.”*

3. The ld. Counsel for the assessee has invited our attention to the impugned order of the ld.CIT(A) to submit

that the ld.CIT(A) has passed the order in violation of principles of natural justice by denying the requests of the assessee for affording opportunity of hearing through Video Conferencing; that the ld. CIT(A) has erred in passing the impugned order without considering the charts, documents, evidences and submissions of the assessee; that the ld. CIT(A) has wrongly upheld the order passed by the Assessing Officer.

4. The ld. DR relied upon the impugned order.

5. We have heard the rival contentions and perused the material available on record. After considering the facts and circumstances of the case, we find force in the contention of the ld. Counsel for the assessee that the assessee was not afforded opportunity of hearing through Video Conferencing despite repeated requests, thereby denying due and adequate opportunity of hearing to the assessee. The ld. Counsel for the assessee has filed copy of the Notification dated 28.12.2021 of Faceless Appeal Scheme, 2021. The relevant part of the Notification is as under :

“12(4) Such hearing shall be conducted through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.”

6. Considering the facts and circumstances of the case and in the interest of justice, the file is restored to the file of Id. CIT(Appeals) to decide the matter afresh in accordance with law after giving a reasonable opportunity of being heard to the assessee and also after considering all the evidences and documents on record. The assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(Appeals).

7. The appeal of the assessee is treated as allowed for statistical purposes.

8. As the facts, circumstances and issues in all the appeals are exactly similar, therefore, our decision in ITA No.67/CHD/2024 would apply, mutatis-mutandis, to the assessee's appeals in ITA No. 68, 69,70 and 71/CHD/2024 also. Accordingly, all appeals of the assessee are treated as allowed for statistical purposes.

8. In the result, all the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced on 03.09.2024.

Sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANTMEMBER

Sd/-

(A.D.JAIN)
VICE PRESIDENT

“Poonam”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar