

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Shri Manish Borad, Accountant Member
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 515/Kol/2024
Assessment Year: 2013-14
&
I.T.A. No. 516/Kol/2024
Assessment Year: 2017-18**

**Income Tax Officer, Burdwan,
Aayakar Bhawan,
Court Compound,
Burdwan - 713101Appellant**

vs.

**Nandanpur Samabay Krishi
Unnayan Samity Ltd., Burdwan,
Vill- Nandanpur, PO Sonagoria,
PS Jamalpur, Burdwan - 713408
[PAN: AAABN0164C] Respondent**

Appearances by:

Assessee represented by : None
Department represented by : P.P. Barman, Addl. CIT, Sr. DR

Date of concluding the hearing : September 04, 2024
Date of pronouncing the order : September 04, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

These appeals filed by the Revenue pertaining to the Assessment Year (in short 'AY') 2013-14 and 2017-18 are directed against the two separate orders passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the National Faceless Appeal Centre (NFAC), Delhi, dated 09.10.2023 arising

out of Assessment Order dated 24.12.2018, passed under Section 143(3)/263 of the Act. AY 2013-14 assessment order dated 23.12.2019 passed u/s 143(3) of the Act for AY 2013-14, and assessment order dated 23.12.2019 passed u/s 143(3) of the Act for AY 2017-18.

2. The Revenue has raised the following grounds of appeal in ITA No. 515/Kol/2024:

- "1 *Whether on the facts and circumstances of the case and in law, the Ld.CIT(A), NFAC is justified in deleting the addition made by the AO disallowing deduction u/s 80P of the Act in spite of the fact that the assessee-society had claimed interest income, (by investing surplus or idle funds which was not required instantly for the purpose of day-to-day business of the assessee) earned on F.D/T.D as profit and gains of business.*
2. *Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) failed to take cognizance of the fact that Hon'ble Supreme Court has also directed in the Totgars Co-operative Sale Society Ltd vs ITO (2010) case to treat such interest income u/s 56 Act. 3. The appellant craved leave to make any amend, addition, alteration, modification etc. of the grounds either before the appellate proceedings, or in the course of appellate proceedings."*

2.1 The Revenue has raised the following grounds of appeal in ITA No. 516/Kol/2024:

- "1 *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A), NFAC is justified in deleting the addition made by the AO disallowing deduction u/s 80P of the Act in spite of the fact that the assessee-society had claimed interest income, (by investing surplus or idle funds which was not required instantly for the purpose of day-to-day business of the assessee) earned on F.D/T.D as profit and gains of business.*
- 2 *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) failed to take cognizance of the fact that Hon'ble Supreme Court has also directed in the Totgars Co-operative Sale Society Ltd vs ITO (2010) case to treat such interest income u/s 56 Act.*

- 3 Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the amount of Rs.33,54,237/- added back to the total income of the assessee for receiving in cash Rs.20,000/- or above in single transaction.
- 4 The appellant craved leave to make any amend, addition, alteration, modification etc. of the grounds either before the appellate proceedings, or in the course of appellate proceedings."

3. It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs. 50 lacs as the prescribed in the CBDT's latest Circular No.17/2019 dated 08.08.2019. It will be pertinent to reproduce the relevant portion of the said Circular as follows:-

"2 . As a step toward further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:

S.No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appellate Tribunal	50,00,000
2.	Before High Court	1,00,00,000
3.	Before Supreme Court	2,00,00,000

4. We find that intention behind the Circular No.17/2019 dated 08.08.2019 needs to be understood in the following perspective:-

3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-à-vis where composite order for more than one assessment year is passed, para 5 of the circular is substituted by the following para:

"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. if, the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No. appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessments year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In

case where a composite order/judgment involves more than one assessee, each assessee shall be dealt with separately."

5. On perusal of the Circular No.17/2019 dated 08.08.2019 and the materials available on record, it reveals that this circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals as well. Hon'ble apex court in Commissioner of Customs vs. Indian Oil Corporation Ltd reported in 267 ITR 272 (SC) has settled the law that CBDT's circulars are very much binding on revenue authorities.

6. The Id. DR has also fairly stated that tax effect involved in appeals are less than the prescribed limit.

7. In view of above stated position, the appeals of the Revenue are dismissed because of low tax effect than the prescribed limits as per CBDT Circular No.17/2019 (supra).

In the result, both the appeals of the Revenue are dismissed.

Kolkata, the 4th September, 2024.

Sd/-
[Manish Borad]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 04.09.2024.
AK, PS

Copy of the order forwarded to:

- 1 Nandanpur Samabay Krishi Unnayan Samity Ltd., Burdwan
2. Income Tax Officer, Burdwan
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches