

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.434/Coch/2023 : Asst.Year 2011-2012

Malippara Service Co-operative Bank Limited No.E-18 Malippara PO Kothamangalam - 686 681. PAN : AADAM8706B.	v.	The Income Tax Officer Ward 1 Thodupuzha.
(Appellant)		(Respondent)

Appellant by : Sri.C.A.Jojo, Advocate
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 13.08.2024	Date of Pronouncement : 13.08.2024
-------------------------------------	---

ORDER

Per Bench :

This assessee's appeal for assessment year 2011-2012 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250 /2023-24/1051861072(1) dated 03.04.2023, passed u/s.250 of the Income-tax Act, 1961.

Heard both the parties. Case file perused.

2. Learned counsel submits at the outset that the CIT(A) / NFAC; in its impugned *ex parte* order, has erred in law and on facts in upholding the Assessing Officer's action in disallowing its 80P deduction claim of Rs.7,03,383 despite the fact that it is eligible for the very relief. He invites our attention to page 2 para 2 of the impugned appellate discussion that the assessee

had not put any appearance (physically) therein. Mr.Jojo attributes reasons thereof to the communication gap(s) at various levels. The Revenue fails to dispute the clinching fact that neither there is any point(s) of determination framed nor we find any detailed discussion thereupon as per the rigor of section 250(6) of the Act in the CIT(A)'s order. This is indeed coupled with the fact which are prima facie find from the case file that the possibility of communication gap, in the new regime involving faceless appeal proceedings or even in any regular physical appeal; in such an instance, could not be altogether ruled out. We deem it appropriate in these peculiar facts and circumstances that larger interest of justice would be met in case the assessee's instant appeal is restored back to the CIT(A)/NFAC for its fresh appropriate adjudication as per law subject to a rider that it shall be the taxpayer's risk and responsibility only to plead and prove all the relevant facts in consequential proceedings within three effective opportunities.

3. This assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on this 13th Day of August, 2024.

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Cochin ; Dated : 13th August, 2024.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Concerned.
4. The CIT Concerned.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst.Registrar/ITAT, Cochin