

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

**Before Shri Waseem Ahmed, Accountant Member &
Shri Soundararajan K, Judicial Member**

ITA No.707/Coch/2023 :Asst.Year 2015-2016

M/s.Sherthala Taluk Small Scale Coir Matting Producers VP-1/11-451B, Kalavamkodam Cherthala, Alappuzha – 688 586 PAN : AAKAS3463L.	v.	The Income Tax Officer Ward 2 Alappuzha.
(Appellant)		(Respondent)

Appellant by : Sri.Srinivasan, CA
Respondent by :Smt.Girly Albert, Sr.DR

Date of Hearing : 24.09.2024	Date of Pronouncement : 30.09.2024
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ORDER

Per Bench :

This is an appeal filed by the assessee challenging the order of the NFAC/CIT(A) dated 04.09.2023 in respect of the assessment year 2015-2016

2. Brief facts of the case are that the assessee is a cottage industry and registered under the provisions of the Kerala Co-operative Societies Act. The assessee purchased the raw material and handed over to the members and the members along with the family members manufactured the coir products. The assessee claimed the income as exempt under the provisions of sec. 80P of the Act, by the assessing authority not accepted the claim of the assessee and

therefore, the assessee challenged the said order before the NFAC Delhi. The NFAC also not accepted the case of the assessee and dismissed the appeal. Therefore, the present appeal has been filed by the assessee with the following grounds of appeal:-

“1. The Officer below were not justified in denying the deduction under any of the sub-sections u/s. 80P(2)(a).

2. The Officers failed to appreciate the facts that the assessment has been framed' on the basis of the I.T. Inspectors report which has not been put forth to your appellant thereby denying natural justice and making an assessment, behind the back of the appellant.

3. Sec. 80P(2)a being a benevolent section, for encouraging small scale societies, the Officer is not justified in denying the Deduction claimed u/s. 80-P.

4. The Officer below have misunderstand the CBDT Circular No. 722 of 19/9/85 relied upon.

5. For the above grounds and other reasons that may be adduced at the time of hearing. Your appellant prays that the addition made by denying deduction u/s. 80P(2)(a) may be deleted & exemption granted u/s. 80(P)(2)a.”

3. At the time of hearing the ld.AR submitted that the assessee is a co-operative society formed for the benefit of the members and to achieve that object, the assessee purchased the raw material and gave the same at the cost price itself and thereafter the coir products were received by the assessee from the members and sold to various customers such as Coirfed, Coir Corporation and various other institutions from whom the assessee has got orders. The ld.AR further submitted that the assessee has got only 3% of the commission and out of the above 3%, 1% was disbursed to the

members. The ld.AR also submitted that the AO got report from the Inspectors attached with him and based on the inquiry conducted by the Inspector, the AO had made the assessment. But the AO had not furnished the copy of the inquiry report to the assessee before making the assessment. The ld.AR also brought our notice that in similar circumstances the assessment year for the year 2020-2021 was completed by allowing the claim made by the assessee and prayed to allow this appeal also since there is no change in circumstances.

4. The ld.DR relied on the orders of the lower authorities.

5. We heard the arguments of both the sides and perused the documents including the assessment order for 2020-2021. On the face of the assessment order, we found that the AO had deputed his Inspectors for spot inquiry and based on the report furnished by them, the AO had made the assessment. But unfortunately the said report was not made available to the assessee in order to contest the same. Further, the National e-assessment centre also considered the assessee's case in respect of the AY 2020-2021 and after going through the byelaws, details of the grants and subsidies received by the government, details of trade expenses, and made the assessment u/s.143(3) of the Act by accepting the claim of the assessee for the direction u/s.80P(2)(a) of the Act.

6. In view of the above said facts that the assessee was not furnished with the inquiry report of the Inspectors and also in

view of the fact that the assessment year fo 2020-2021 by accepting the claim of deduction 80P(2)(a) of the Act we are inclined to set aside the order of the lower authorities and remit this issue to the file of the AO for *de novo* consideration and also by considering the assessment order dated 23.08.2022 passed in respect of assessment year 2020-2021, after furnishing the copy of the report as well as after granting a reasonable opportunity of being heard to the assessee.

7. In the result the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 30th day of September, 2024.

Sd/-
(Waseem Ahmed)
ACCOUNTANT MEMBER

Sd/-
(Soundararajan K)
JUDICIAL MEMBER

Cochin ; Dated : 30th September, 2024.
Devadas G*

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

Asst.Registrar/ITAT, Cochin