

IN THE INCOME TAX APPELLATE TRIBUNAL “K(SMC)” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No.4271/Mum/2024
(Assessment Year: 2020-21)

Adhyaru Industrial Premises Co-op. Society Limited 3 rd Floor, Sun Mill Compound, Lower Parel (W), Mumbai	Vs.	ITO Ward 22(1)(6) Piramal Chamber, Lalbaug, Mumbai-400 012
PAN/GIR No. AACAA 2754 J		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Vinod Jha
Respondent by	:	Shri Tushar Mohite
Date of Hearing	:	17.10.2024
Date of Pronouncement	:	30.10.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2020-21.

2. During the appellate proceedings, it was observed that the appeal has been filed by the assessee with a delay of 14 days for which an Affidavit has been filed briefing the reason for the said delay. Upon perusal of the same, we deem it fit to condone the delay. Delay condoned.

3. The assessee has raised the following grounds of appeal:

- 1 *The delay caused in replying back to Order was not due to any ignorance or casual approach towards the matter. It was totally unintentional and obviously due to unawareness about the issuance of the Order.*

Pray: The reason be considered out of Natural Justice and the unjust order be quashed.

- 2 *It has been also noticed that, an unrequired hurry in passing the impugned order (within 69 working days) is evident and existent in this case.*

Pray: The reason be considered out of Natural Justice and the unjust order be quashed.

3. *On the facts and in the circumstances of the case and in law, The Commissioner of Income-tax (Appeals) at NATIONAL FACELESS APPEAL CENTRE (NFAC), erred in rejecting the deduction of Interest received by the Industrial Society, u/s. 80P(2)(d) of the Income-tax, 1961 and adding the Interest amount to the taxable amount.*

Pray: The Appellant prays that deduction u/s 80P(2)(d) be allowed and the addition of Rs.27,25,102/- be deleted OR the Order be remanded back.

3. The brief facts are that the assessee is an Industrial Co-operative Society engaged in supply of water to various galas and to provide electricity to the common area of the society's building for which the assessee collects monthly subscription from its members and other charges for maintaining the building of the society. The assessee had filed his return of income for the year under consideration on 15.02.2021, declaring total income of Rs.1,35,000/-, after claiming deduction u/s. 80P(2)(d) to the tune of Rs.28,60,102/-. The assessee's case was selected for limited scrutiny under CASS for verifying deduction from total income under Chapter VIA of the Act. The Id. Assessing Officer ('A.O.' for short) then passed the assessment order u/s.143(3) r.w.s. 144B of the Act on 30.08.2022, thereby determining the total income at Rs.28,60,102/-, after making an addition/disallowance on account of interest income received on deposits held in Co-operative Banks amounting to Rs.27,25,102/-

4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The Id. CIT(A) vide and *ex parte* order dated 30.05.2024, upheld the order of the Id.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate its claim and has been non compliant throughout the appellate proceedings.

6. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee has got a good case on the merits where the issue in the present appeal stands covered in favour of the assessee by various decisions of the co-ordinate benches and prayed that the assessee may be given one more opportunity to present its case before the Id. CIT(A).

9. The learned Departmental Representative ('Id.DR' for short) vehemently opposed to setting aside the issue to the file of the Id. CIT(A) for the reason that the assessee was given several opportunity by the Id. CIT(A) which was not availed by the assessee.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present its case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the Id. CIT(A) for *de novo* adjudication. The assessee is directed

to comply with the proceedings without any undue delay on its side and needless it is to say that sufficient opportunity of hearing is to be given to the assessee.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 30.10.2024

Sd/-

Sd/-

(Om Prakash Kant)
Accountant Member

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 30.10.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai