

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 111/Coch/2023
Assessment Year : 2014-15

M/s. Kararinakam Service Co-operative Bank Ltd., Kuruva, Kadalayi, Kannur District – 670 007. PAN: AAAAK9728J	Vs.	The Income Tax Officer, Ward – 1, Kannur.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Smt. Girly Albert, Senior DR.

Date of Hearing	:	10-09-2024
Date of Pronouncement	:	18-09-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the orders of the NFAC dated 30/11/2022 in respect of the assessment year 2014-15.

2. The assessee is a co-operative bank and filed their return of income and claimed deduction u/s. 80P of the act.

3. The AO without considering the facts that the assessee is a co-operative bank, have disallowed the claim made u/s. 80P of the act by observing that the assessee is neither a primary credit society nor a primary agricultural credit society, as claimed by the assessee. The AO also disallowed the interest paid to the non-members in excess of Rs. 10,000/- for the reason that the assessee had not deducted tax at source and therefore disallowed the claim u/s. 40(a)(ia) of the act. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and the Ld.CIT(A) had dismissed the appeal for the reason that the assessee had not appeared and filed any materials to warrant interference in the order of the AO. The Ld.CIT(A) have passed the order ex-parte and as against the said order the assessee preferred this appeal before this Tribunal with the following grounds.

“1. The appellate order passed by the NF AC through Commissioner of Income tax (Appeals), Delhi is against the facts and circumstance of the appellant's case and hence opposed to the provisions of the Income tax Act.

2. The learned first appellate authority grossly erred in dismissing the appeal for the alleged non-representation of the case on different dates fixed for hearing as stated in the appellate order. The appellant submit that none of these notices were served on or received by the appellant. The appellant submit that the appeal has been dismissed without providing adequate opportunity as provided under the Income tax Act.

3. Due to Covid-19 and connected lock down including triple lock down, prevailing in all parts of Kerala during the financial years 2020-21 and 2021-22 especially during dates in which the notices are stated to be sent and hence the appellant was not aware of the posting of the cases in those days as stated by the Commissioner of Income tax (Appeals) and hence could not promptly respond to them .

4. Without prejudice to the above, appellant humbly submit that the Commissioner of Income tax (Appeals) has passed the order dismissing the appeal without considering the legal grounds raised in the appeal by passing a non-speaking order, which is patently against the provisions of the Income tax Act. The Commissioner of Income tax (Appeals) has not even attempted to took into the legal and factual grounds of appeal raised, the evidences of which are all available in the records with the revenue. Summarized dismissal of appeal by reiterating the grounds of appeal stated, in the appellate order is against the settled provisions of law and hence illfounded ,

5. The appellate order having been passed without any reasonable opportunity to the appellant, it is against the provisions of the Act and hence illegal.

6. For the above and for other reasons to be adduced at the time of hearing, it is prayed that justice be done to the appellant by setting aside the order appealed against.”

4. At the time of hearing, the Ld.AR submitted that no notices were served on the assessee and therefore there was no effective opportunity available to the assessee to appear and to produce the records in support of their claim. The Ld.AR also pointed out that notices were sent during the period of covid 19 lockdown and therefore they are not able to appear and prayed one more opportunity to appear before the Ld.CIT(A).

The Ld.DR relied on the orders passed by the lower authorities.

5. We have heard the arguments of both the sides and perused the records.

6. The Ld.CIT(A) had dismissed the appeal for the non-appearance of the assessee and also for the reason that the assessee had not produced any documents in support of his arguments. We have perused the form no. 35 filed by the assessee and in the column Email address, the assessee had mentioned the email ID but in the next column, they have opted not to send the notices through that email. In spite of that, the Ld.CIT(A) had sent the notices through email but not to the email ID mentioned in form 35. We verified the said fact by comparing the mail i.ds shown in the Form 36 and Form 35 and found that the email i.d mentioned in form 36 is kascobank@gmail.com whereas in form 35, the email ID has been mentioned as efilingdata@yahoo.co.in. Further the notices were all sent during the Covid period and therefore there is every possibility for non viewing the portal. In view of the above said facts, we are accepting the contention of the assessee that no notices were received by the assessee and in the interest of justice, we are giving one more opportunity to the assessee to appear before the Ld.CIT(A). Hence we are setting aside the order of the

ld CIT(A) and remitting the issue to the file of the ld CIT(A) for passing the order afresh and in accordance with law after hearing the assessee in person.

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

Order pronounced in the open court on 18th September, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 18th September, 2024.
/MS /

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|---------------|---------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin