

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No. 4986/Mum/2024
(Assessment Year: 2020-21)**

The St. Sebastian Homes Co-op Society Ltd. 3, Sebastian House, 42 Rebello road, Bandra West Mumbai – 400 050.	Vs.	ITO – 23(3)(1) Piramal Chambers, Lalbaug, Mumbai – 400012.
PAN/GIR No. AAAAT3419K		
(Applicant)		(Respondent)

Assessee by	Shri Bhavesh Jain
Revenue by	Shri Nagnath Bhimarao Pasale, Sr. AR

सुनवाई की तारीख/Date of Hearing	12.11.2024
घोषणा की तारीख/Date of Pronouncement	13.11.2024

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 29.07.2024, passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('Ld. CIT(A)'), for the assessment year 2020-21. The assessee has raised the following grounds of appeal:

- 1. In the facts and circumstance of the case and especially in law, the Ld.CIT(A) has erred in passing the impugned order*

without considering the facts, documents and submissions of the appellant case and instead mentioning the facts/content and names of some other unconnected appellant.

2. Without prejudice to above and in the facts and circumstances of the case and especially in law, the Ld.CIT(A) has erred by passing the erred by passing the erroneous impugned order without considering the facts of appellant case and without appreciating that 3 ITAT in favour of the appellant have been earlier passed on same set of facts thereby this being a covered case.

2. Ground -1 raised by the assessee relates to challenging the order of the CIT(A) in passing the impugned order without considering the facts, documents and submissions of the assessee. In this regard we have heard the counsels of both the parties and perused the material placed on record, orders passed by the revenue authorities. From the facts, we noticed that in the present case the assessee being a cooperative society had claimed deduction u/s 80P(2)(d) of the Act in respect of interest income earned by the society on investment made with cooperative banks but Ld.AO disallowed the said claim and treated the interest and dividend received by the assessee from cooperative bank as income from other sources vide order dated 08.08.2022.

3. Aggrieved by the said order, the assessee preferred appeal but the same was dismissed by the Ld.CIT(A) against which the assessee has preferred the present appeal before us.

4. On perusal of the impugned order of Ld.CIT(A), we find that Ld.CIT(A) has narrated and discussed the facts of some other case, which are not related to the assessee and is not emanating from the order of the Ld.AO and do not relate to the claim of the assessee u/s 80P(2)(d) of the Act. Therefore the same is not sustainable in the eyes of law, thus stands quashed.

5. Since the Ld.AR has submitted that the matter is covered in favour of assessee by the decision of Coordinate Benches of ITAT in assessee's own case of different years, but, be that as it may, since the CIT(A) has not adjudicate the claim of the assessee on merits, therefore, we restore the matter back to the file of the Ld.CIT(A) with a direction to decide the same on merits after providing opportunity of hearing to the assessee.

6. Before parting, we make it clear that our decision to restore the matter back to the file of the CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 13.11.2024.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 13/11/2024

KRK, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai