

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

Before Shri Inturi Rama Rao, Accountant Member

ITA No. 550/Coch/2024
(Assessment Year: 2020-21)

Ammadam Service Co-op. Bank Ltd. Ammadam P.O. Thrissur 680563 [PAN: AACAA6004F]	vs.	Income Tax Officer - 1(1) Aayakar Bhavan Shakthan Thampuran Nagar Thrissur
(Appellant)		(Respondent)

Appellant by:	Shri Vipin K.K., CA
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	29.10.2024
Date of Pronouncement:	18.11.2024

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 31.10.2023 for Assessment Year (AY) 2020-21.

2. At the outset, I find the appeals are time barred by limitation by 218 days before the Tribunal. The assessee filed petitions praying for condonation of delay stating that the delay occurred due to the resignation of the Chartered Account, who was the tax auditor of the as for AY 2023-24, on 15.10.2023. Due to the frequent changes happened in the post of Secretary, thus there was delay in appointing new auditor and tax consultant. The new tax auditor and tax consultant was appointed in the Board Meeting held on 09.04.2024 and all the papers were handed over to the

new tax auditor on 15.04.2024. Therefore, the delay caused is unintentional and not deliberate. The assessee states that it has a good case on merits and prayed for condonation of the delay.

3. Having gone through the averments made in the condonation petition filed by the assessee and in the absence of any material to disbelieve the contention put forth by the assessee, I am of the considered opinion that it is a fit case to condone the delay of 218 days in filing the appeals and proceed for adjudication of the appeals on merits.

4. Brief facts of the case are that the assessee is a co-operative society formed with the objective of accepting deposits and lending loans to its members. The return of income for AY 2020-21 was filed on 12.01.2021. Against the said return of income assessment was completed by the Assessing Officer (AO) vide order dated 24.09.2022 u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 (the Act) at a total income of Rs. 12,50,222/-. While doing so the AO brought to tax the miscellaneous income earned from non-members amounting to Rs. 12,50,000/- being the income derived from various miscellaneous services.

5. Being aggrieved, an appeal was filed before the CIT(A) who vide the impugned order confirmed the action of the AO.

6. Being aggrieved, the assessee is in appeal before the Tribunal. It is submitted before me that the AO was not justified in bringing to tax the entire miscellaneous income without allowing the expenses incurred while earning the miscellaneous income.

7. On the other hand, the learned Sr. DR supported the orders of the authorities below.

8. I have heard the rival contentions of both the parties and perused the material available on record. It is the fundamental principle of income tax that what could be taxed is only the real income of the assessee. There is no dispute with regard to the taxability of miscellaneous income, but the AO should have allowed the expenses incurred for earning such miscellaneous income. Therefore, I am of the considered opinion that the ends of justice would be met, if the matter is restored to the AO with a direction that tax only the net miscellaneous income after examining the necessary evidences.

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

Order pronounced in the open court on 18th November, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 18th November, 2024

n.p.

Copy to:

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

By Order

Assistant Registrar
ITAT, Cochin