

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

**BEFORE SHRI MS KAVITHA RAJAGOPAL, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.4168/M/2024
Assessment Year: 2013-14**

Twinkle Star Cooperative Housing Society Limited Ghatla Village, Chembur Maharashtra- 400071. PAN: AAAAT1535A	Vs.	Assistant Director of Income Tax CPC, Bengaluru- 560500.
(Appellant)		(Respondent)

Present for :

Assessee by : Shri P. P. Jayaraman

Revenue by : Shri Kiran Unavekar, SR. D.R.

Date of Hearing : 01.10.2024

Date of Pronouncement : 19.11.2024

O R D E R

Per : Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the ‘Act’ in short] vide DIN & Order No. ITBA/APL/S/250/2024-25/1065949907(1) Dated 24/06/2024 for the Assessment Year 2013-14.

2. Following grounds of appeal have been raised by the appellant:

1. ***“Addition made on account of disallowing claim u/s 80P:***

That on the facts and the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeals) has erred in dismissing the appeal without considering the merits of the case.

The CPC u/s 143(1) has made the addition to total income by disallowing claim made u/s 80P(2)(d) of the Act (Rs.7,33,737/-). The addition made by CPC u/s 143(1) resulted into increase in total income to Rs.7,33,740/- (rounded off) and thereby issue of demand for Rs.2,78,870/- vis-a-vis no tax payable as per the ROI filed by the appellant. Aggrieved by the intimation order issued u/s 143(1), appeal was filed before Ld. CIT(A) which has been dismissed vide order dated 24.06.2024.

Your Honour please note that the appeal filed before CIT(A) was delayed and it was filed with Condonation request explaining the reason for delay of appeal. However, Ld. CIT(A) has dismissed the appeal on the ground of rejecting Condonation of appeal without discussing the merits of the case.

The only issue involved in the appeal is that the appellant being a society had claimed deduction u/s 80P(2)(d) of the Act in respect of interest income earned from co-operative bank which is not allowed by CPC in its intimation order issued u/s 143(1) of the Act.

The appellant would like to submit that the said amount of interest received during the year was received from the deposits maintained with the co-operative bank as under:

I) The Maharashtra State Co-op Bank Ltd-Rs.7,37,737/-

As the above co-operative bank is also a co-operative society, the interest or dividend received from the bank shall be eligible as deduction u/s 80P(2)(d) of the Act.

The appellant request your Honour to allow it to produce the required details/documents during the appellant proceedings and decide the case on merit.

2. *Your appellant prays for permission to add to, amend or alter any or all the grounds of appeal at any time prior to the hearing of the appeal.”*



3. The Appellant is a resident housing society registered under the Maharashtra Co-op Societies Act, 1960 and is a regular income tax assessee. The Appellant has been filing its Return of Income (ROI) regularly and is not engaged in any commercial activities except management of the member's resident society at Chembur, Mumbai. The original e-return (ROI) was filed on 16.09.2013, well within the due date, declaring total income of Rs. 'NIL' which was processed and an intimation u/s 143(1) of the Act was issued. The intimation order dated 06.10.2014 was issued with additions/disallowances for deduction claimed u/s 80P of the Act which resulted into increase in total income at Rs.7,33,740/- Aggrieved by the disallowances made in the intimation order, an appeal before Ld. CIT(A) was filed which was dismissed by him rejecting the request for the condonation of delay filed with the appeal. This appeal has arisen out of the intimation u/s. 143(1) of the Income Tax Act dated 06/10/2024 passed by the designated authority of CPC (Bengaluru). In the said intimation order dated 06/10/2024, the claim of deduction made by the assessee u/s. 80P(2)(d) of the Act was disallowed. Aggrieved by the intimation order passed u/s.143(1) of the Act, the assessee filed appeal before the Ld. CIT(A) who, vide the impugned order did not decide the issue on merit and rejected the appeal of the assessee on the ground that there was a delay of approximately ten

years in filing the appeal. He held that the appeal filed by the appellant was, therefore, not maintainable. Aggrieved by the order of the Ld. CIT(A), the present appeal has been preferred before us.

4. During the appellate proceedings before us, the appellant submitted that it had filed various rectification applications u/s. 154 of the Act before the Ld. AO as under: -

A.Y 2013-14
ITR Filed on 16-09-2013
143(1) dated: 06-10-2014
Rectification:
Letter dated:- 05-11-2014
Letter dated:- 31-01-2017
Letter dated:- 27-09-2017
Letter dated:- 20-02-2024
CIT (A) Filed on 29-04-2024

But the Ld. AO never disposed of the above rectification applications.

5. We have considered the facts of the case and the submissions made as above. It is found that the Ld. CIT(A) has not decided the issue on merit on the ground of delay in filing appeal whereas, the Ld. AO neither rejected nor accepted the application made by the assessee for rectification u/s. 154 of the Act. Thus, considering the principles of natural justice, the order of the Ld. CIT (A) is set aside and the matter is remanded back to the file of the Jurisdictional Assessing Officer to consider the claim of deductions



made by assessee u/s. 80P(2)(d) of the Income Tax Act by affording the appellant the opportunity of being heard.

6. In the result, the appeal is allowed for statistical purpose.

Order pronounced on 19.11.2024 as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rules 1963.

**Sd/-
KAVITHA RAJAGOPAL
JUDICIAL MEMBER**

**Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER**

Mumbai, Dated: 19.11.2024
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.