IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.391/Nag./2019
(Assessment Year : 2014–15)

Asstt. Commissioner of Income Tax
Circle–5, Nagpur ……. Appellant

v/s

The Nirmal Ujwal Credit
Co–operative Society Ltd.
Main Road, Nandanvan, Nagpur 440 009 ……. Respondent
PAN – AAAAT6554H

Assessee by : Shri Manoj G. Moryani
Revenue by : Shri Vikash Agrawal

Date of Hearing – 07/11/2024	Date of Order – 27/11/2024

O R D E R

PER K.M. ROY, A.M.

The captioned appeal has been filed by the Revenue challenging the impugned order dated 26/09/2019, passed by the learned Commissioner of Income Tax (Appeals)–1, Nagpur [*"learned CIT(A)"*] for the assessment year 2014–15.

2. The Revenue has raised following grounds:–

> *"1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-1, Nagpur was correct in allowing the relief, in respect of the addition made by the AO, u/s. 80P(2) of the I.T. Act 1961, in view of the Honorable Apex Court judgment in the case of The Citizen Co-operative Society Ltd. Hyderabad –Vs.- ACIT-Cir(9)(1), Hyderabad in CA No. 10245 of 2017 and also in spite of the fact that entire receipts of society would not be entitled for deduction u/s. 80P(2) of the I.T. Act, 1961.*

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A)-1, Nagpur, was correct in allowing the claim of the assessee on the various ground raised by the AO in the assessment order and held that the assessee is eligible for deduction/s. 80P, irrespective of the fact that the assessee engaged in the business of Real Estate in the name of Nirmal Nagri Housing Project, and also into the business of providing Health Care.

3. Whether on facts and in the circumstances of the case and in law, the Ld. CIT(A) was correct in interpreting the amendment in the clause no. 4 of section 80P w.e.f. 1/4/2007.

4. Any other ground that may be raised during the proceedings."

3. Fact in Brief:- The assessee is a Credit Co–operative Society providing banking and credit facility to its members. During the year, the assessee was also involved into business of real estate in the name of Narman Nagri Housing Project and was also engaged in the business of providing health care. For the year under consideration, the assessee filed its return of income on 25/11/2014, declaring total income at ₹ NIL. The case was selected for scrutiny under CASS and notices under section 143(2) of the Income Tax Act, 1961 (*"the Act"*) was issued and served on the assessee. The assessment was completed under section 143(3) of the Act, after making the huge addition of ₹ 4,06,53,362, and raising demand of ₹ 1,44,73,850, making various additions. The assessee being aggrieved by the assessment order so passed by the Assessing Officer, carried the matter in appeal before the learned CIT(A).

4. The submissions of the assessee, as contained in the impugned order vide Para–2 to 12 of the learned CIT(A) are reproduced below:–

"1. The appellant is a credit co-operative society engaged in the business of providing credit facilities to its members. Additionally the appellant also constructing the housing project to provide housing facilities to its members in the name of Nirmal Nagri Housing Project.

For the year under consideration the appellant filed return of income U/s. 139(1) on 25/11/2014 declaring total income of Rs. Nil.

2. *The case of the appellant was selected for scrutiny under CASS and notice U/s. 143(2) was issued and served upon the appellant. During the assessment proceedings, the counsel fo the appellant, Shri Kailash M. Jogani, Chartered Accountat and Authorised Representative (AR) of the appellant attended the proceedings from time-to-time and submitted the documents as and when called for.*

3. The AO asked the appellant to furnish computation of Income, Audit Report, Form 26AS Statement, Balance Sheet, Profit & Loss Account and other relevant documents and details during the course of assessment, whenever called. The appellant through his AR explained the case from time-to-time. The AO duly checked and verified the same and placed them on record.

4. The first addition pertains to disallowance made in respect of provision for bad doubtful debts debited by the appellant in the Profit and Loss Account for the year under consideration amounting to Rs. 2,65,00,000/-. The AO contended that the provisions for bad and doubtful debts and contingencies are not allowed under the Income Tax Act, 1961. The AO further contended that the Provision for Bad & Doubtful Debts is allowed only to Co-operative Banks and financial institutions subject to certain limits specified in Section 36(1)(viia) and that to only up to the extent it is in excess of credit balance in the provision for bad & doubtful debts account made u/s 36(1)(viia) of the Income Tax Act, 1961. Thus, a co-operative society is not eligible for claiming deduction of provision of bad & doubtful debts under the provision of Income Tax Act.

In this regard I wish to submit that the appellant is a credit co-operative society engaged in the business of accepting deposit from its members and providing credit facilities to its members. Making the provision for bad and doubtful debts in the books of accounts does not automatically concludes to disallowance of expenses or provision debited in the profit and loss account. An important fact which deserves to be appreciated in that the provisions referred by the Assessing Officer i.e. 36(1)(viia) (while making disallowance of provisions and contingencies towards bad and doubtful debts) are provisions applicable only to Scheduled Banks, non Scheduled Banks and Co-operative Banks. Thus, the aforesaid provisions referred by the Assessing Officer are not applicable to the appellant society which is a credit co-operative society.

5. The appellant can certainly provide for the amounts which they think as not receivable in the books of accounts. Accordingly being on prudent society they have disclosed the correct fact to the share holders of it by providing for the non receivable advances to arrive at the probable profits. However the as per the provision of Income Tax Act 1961 the same is not allowed as expense in the case of the appellant.

6. In this situation the AO have disallowed the expenses and increased the profit from business of the appellant which can be seen from the computation. The action of the AO will increase the Income

from business and finally will increase the Gross Total Income of the appellant.

7. However without prejudice to what is stated above I humbly wish to submit that while assessing income of an assessee, income under all heads of income is compiled and the aggregate income is known as 'Gross Total Income'. Further from this Gross Total Income deductions under Chapter VI-A are allowed and resultant amount is 'Total Taxable Income' on which tax is calculated. Thus it may observed that, when an expenditure is disallowed it would get added back in the income under the head business and profession (if the expenditure relates to that business) and shall stand a part of gross total income. And on this income then the deductions under Chapter VI-A shall be allowed.

8. In nut shell, the deduction u/s. 80P case of assessee shall have been allowable on the extended income (generated by disallowing such expenses/provisions & contingencies). The said view finds support from the judgment of Jurisdictional Bombay High Court and Pune ITAT. An operating paragraphs of aforesaid judgments is reproduced for your kind perusal :-

CIT V/s Gem Plus Jewellery India Ltd. (330 ITR 175) High Court of Bombay :-

In this case Assessing Officer enhanced income by disallowing employer's as well as employee's contribution towards provident fund/ESIC, it was held that exemption under section 10A had to be granted on such enhanced income.

Relevant Para ;-

As a matter of fact the question of law which is formulated by the revenue proceeds on the basis that the assessed income was enhanced due to the disallowance of the employer's as well as the employee's contribution towards Provident Fund/ESIC and the only question which is canvassed on behalf of the revenue is whether on that basis the Tribunal was justified in directing the Assessing Officer to grant the exemption under section 10A. On this position, in the present case it cannot be disputed that the net consequence of the disallowance of the employer's and the employee's contribution is that the business profits have to that extent been enhanced. There was, as we have already noted, an add back by the Assessing Officer to the income. All profits of the unit of the assessee have been derived from manufacturing activity. The salaries paid by the assessee, it has not been disputed, related to manufacturing activity. The disallowance of the provident fund/ESIC payments has been made because of the statutory provisions – section 43B in the case of the employer's contribution and section 36(v) read with section 2(24)(x) in the case of the employee's contribution which has been deemed to be the income of the assessee. The plain consequence of the disallowance and the add back that has been made by the Assessing Officer is an increase in the business profits of the assessee. The contention of the revenue that in computing the deduction under section 10A the addition made on account of the disallowance of the provident fund/ESIC payments ought to be ignored

cannot be accepted. No statutory provision to that effect having been made, the plain consequence of the disallowance made by the Assessing Officer must follow. The second question shall accordingly stand answered against the revenue and in favour of the assessee.

CIT V/s Bora Agro Foods (ITAT Pune)

In this case the issue pertained to the claim of deduction u/s. 80A(4) in respect of the amount disallowed u/s. 40(a)(ia) of the Act. This issue was addressed in favour of the assessee by the Pune Bench by observing as under :-

> *3. Having gone through the first appellate order, we find that the issue raised is fully covered by the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs. Gem Plus Jewellery India Ltd. in ITA No. 2426 of 2009 dated 21.03.2010 holding that the appellant was eligible for additional claim u/s. 10A due to enhancement of income on account of disallowance u/s. 43B of the Act. The Hon'ble High Court was pleased to hold therein that the enhancement resulted in increase in the business profit of the assessee which was eligible for deduction u/s 10A. The Bombay Bench of the Tribunal in the case of Saba Software Pvt. Ltd. Vs. ITO in ITA No. 1454/Bom/2009 dated 27/01/2010 has also given similar decision. Following these decisions as well as decision of Pune Bench of the Tribunal in case of Veritas Software India Ltd. ITA No. 135 and 1374/PN/2006 in this respect the Ld. CIT(A) has allowed the claim deduction u/s. 10B of the Act to the assessee on the addition made by way of disallowance u/s. 40(a)(ia) of the Act made on account of non-deduction of TDS. We thus do not find reason to interfere with the first appellate order on the issue. The same is upheld. The issue is thus decided against the revenue.*

The above judicial pronouncement has also been followed by co-ordinate Bench of same (Pune) Tribunal in case of :-

Jay Tuljabhavani Sah. Patpedhi Pragati V/s ITO (ITAT Pune)

Relevant Para :-

We also find that the aforesaid decision of the Tribunal in the case of Bora Agro Foods (Supra) has been followed by co-ordinate Bench of this Tribunal in the case of Dy. CIT Vs. Shri Agrasen Sah. Patsantha Maryadit, dhule in ITA No. 1459 and 1460/PN/2005 for A.Y. 1999-00 and 2000-01 vide its order dated 30.03.2011. Similar view has been taken by ITAT Mumbai 'E' Bench in the case of S.B. Builders and Developers Vs. ITO 92011) 50 DTR 299. Fact being similar, so following the reasoning given in the aforesaid decision of various Benches of the Tribunal, we direct the authorities below to allow the claim of deduction u/s. 80P made by the assessee on enhanced income.

Considering in the settled law on this issue, I humbly request your kindness to allow deduction under section 80P of extended income of Rs. 2,65,00,000/- (disallowed provisions/contingencies)

9. The another addition pertain to disallowance of investment fluctuation expenses of Rs. 82,12,803/- in provisions & contingencies

head of Profit & Loss Account. The Appellant has debited an amount of Rs. 82,12,803/- towards Investment Fluctuation Reserves in its Profit and Loss Account. The appellant has debited an amount of Rs. 82,12,803/- towards Investment Fluctuation Reserves in its Profit and Loss Account. The appellant had invested an amount of Rs. 2,82,12,803/- in Samta Sahkari Bank Ltd. in fixed deposit. This bank was declared bankrupt and was declared by RBI into liquidation. Due to this the Appellant partially debited an amount of Rs. 82,12,803/- as bad debt towards Investment Fluctuation expenses. The Assessing Officer was of the view that interest income on deposits made with bank is not attributable to the credit income of the co-operative society and accordingly it's principal amounts written off should also be outside the scope of section 80P. The Assessing Officer relied on the case of Basaweshear Credit Co Operative Society Ltd. V/s CIT (2014) (47 Taxmann.com 189 and judgment of the Hon'ble Supreme Court in case of Totagars' Co-operative Sale society Ltd. V/s ITO 92010) 188 Taxman 282 (SC). The main emphasis of the Assessing Officer was on proving the fact that the appellant society has parked surplus funds that are not required immediately for business into fixed deposits and accordingly interest earned on such funds would come under the category of 'Income from Other Sources' taxable under section 56 of the I.T. Act, 1961 and thus the written off of its basis investment amount would not qualify for deduction as business income us. 80P(2)(a)(i) of the I.T. Act, 1961.

10. In this regard I humbly wish to submit that the Assessing Officer has completely misinterpreted the facts of the case. The Assessing Officer has made disallowance of expenses claimed but termed it as an income and accordingly made disallowances of the expenses claimed by the appellant towards Investment Fluctuation.

The Act of the AO is not supported by the actual facts of the case and his theory of disallowance since the interest is not covered in 80P (which is settled otherwise by the various decisions of the courts against the conclusion of the AO) the principal should not be allowed as deduction. Therefore, the investment made by the appellant is very much as business investments and its loss should be allowed as business expenses.

11. Even other in income from other sources it is clearly mentioned that the expenses incurred for earning the income taxable under this head should be allowed as deduction. Accordingly as the AO has considered this income under the head Income From Other Sources the AO should have allowed the deduction of this loss as it was incurred in respect of earning the income.

12. Without prejudice to what is stated above I humbly wish to submit that while assessing income of an assessee and as explained about, that income under all heads income is compiled and the aggregate income is known as 'Gross Total Income'. Further, from this Gross Total Income, deduction under Chapter VI-A are allowed and resultant amount is 'Total Income' on which tax is calculated. Thus it may observed that, when an expenditure is disallowed it would get added back in the income under the head business and profession (if

the expenditure related to that business) and shall stand as a part of gross total income. On this income then the deductions under Chapter VI-A will be allowed.

13. The AO further disallowed the claim of prior period adjustment/ expenses made by the appellant in the Profit & Loss A/c. On enquiring about the same the AO, the appellant replied as under :

As already state earlier, society has claimed an amount of Rs. 63,02,012/- in respect of prior period expenditure. As per the tax audit report, such expenses is already reported along with the prior period income of Rs. 39,15,000/- in respect of sale of flats which was overlooked to be booked in the relevant financial year. Thus, the net result of such income and expenses comes to Rs. 23,86,382/- which is separately reported by the auditor in consolidated summarized profit & loss account. The reporting of such item was separately required by Accounting Standard-5 issued by ICAI so that the impact of prior period items in the current profitability can be perceived by the reader of the financial statements.

The AO considered the submission of the appellant to be not acceptable. From this the AO contended that since the appellant was following mercantile system of accounting, any expenditure of earlier year cannot be allowed as expenditure of current year until and unless there is a proof that the said expenses have crystallized in the current year. The AO disregarded the submission of appellant since the appellant could not produce the details and bills of prior period expenditure. Accordingly, the AO disallowed the prior period adjustment of Rs. 23,86,382/- and added the same back to the income of the appellant.

With respect to this the appellant wishes to submit that being an item of previous years, and also an permissible item of adjustment, there is nothing wrong in claiming the deduction of a prior period item. The AO in this has objected the claim for prior period expenses as claimed by the appellant.

In this regard I humbly wish to submit that though the prior period expenditures are not claimed in the earlier years still they shall be allowed to be claimed in the current year. For this proposition I draw support from the judgment in case of CIT Vs. Vishnu Industrial Gases (2008) (Del)(HC). In this case the judgment of Bombay High Court in the case of CIT Vs. Nagri Mills Co. Ltd. (1958) 33 ITR 681 (Bom) is also considered wherein it was stated that the Assessing Officer should not dispute the year of addition, if the rate of tax and impact of tax remains same. The relevant para of the order, where in the Hon'ble Delhi High Court has reproduced para of Bombay High Court judgment is as under:
"We have often wondered why the Income tax authorities, in a matter such as this where the deduction is obviously a permissible deduction under the Income Tax Act, raised disputes as to the year in which the deduction should be allowed. The question as to the year in which a deduction is allowable may be material when the rate of tax chargeable on the assessee in two different years is different; but in the case of income of a company, tax is attracted at a uniform rate, and whether the deduction in respect of bonus was granted in the assessment year

1952-53 or in the assessment year corresponding to the accounting year 1952, that is in the assessment year 1953-54, should be a matter of no consequence to the Department; and one should have through that the Department would not fritter away its energies in fighting matters of this kind. But, obviously, judging from the references that come up to us every now and then, the Department appears to delight in raising points of this character which do not affect the taxability of the assessee or the tax that the Department is likely to collect from him whether in one year or the other.?

14. Even otherwise and notwithstanding anything mentioned above, even if the prior period expenses are disallowed, it would ultimately result in increase in gross total income, which is completely deductible under section 80P as already explained in above para. Thus, the deduction u/s 80P in case of assessee shall have been allowable on the extended income (generated by disallowing such expenses/provisions & contingencies). Considering in the settled law on this issue, I humbly request your kindness to allow deduction under section 80P on extended income.

15. The learned AO in his assessment order contended that the appellant had claimed expenditure on purchase of pigmy machines as revenue in nature and accordingly, debited the same to the Profit & Loss Account. The AO contended that the same should be capital in nature. The AO enquired the appellant the reason for claiming the same as revenue expenditure to which the appellant replied that the pigmy machines were brought for Rs. 18,84,568/- and were purchased for collecting daily deposits from the members of the society. The useful life of the machine is only one year and hence debited to revenue account rather than capitalizing in fixed assets. The AO disregarded the submission of the appellant and said that since the pigmy machines had long enduring benefits the same should be capitalised like other assets.

16. Regarding this, the appellant wished to submit the pigmy machine had a useful life of only one year and also once given to the agent they are never returned back by the agents to the appellant and it is in either way a loss to the appellant and needs to be claimed as expense of the year in which the machine are purchased. Hence, the same should be allowable as revenue expenditure to the appellant.

17. Even if the AO wish to treat the same as capital expenditure he should have allowed the depreciation to the appellant. The AO did not allow the expenses as well as the depreciation, it clearly indicates the addition is made with the prejudice and unlawful way and therefore needs to be deleted.

18. Further not withstanding anything mentioned in above para, even otherwise, if the expenses on purchase of machines are disallowed, it would ultimately result in increase in gross total income, which is completely deductible under section 80P. Thus, the deduction u/s 80P in case of assessee shall have been allowable on the extended income (generated by disallowing such expenses/provisions & contingencies). Considering in the settled law on this issue, I humbly request your kindness to allow deduction under section 80P on extended income.

19. The AO further in the assessment proceedings asked the appellant to provide details of donation expenditure incurred by it and claimed in profit & loss account. The appellant had debited a total donation expenditure of Rs. 4,35,105/- to the profit & loss account. On asking the appellant to submit the relevant ledgers and documents relating to donations, the appellant submitted that the donations were made to various trusts, sanghatans, mandals and religious festivals. From, this the AO concluded that the donations were not made wholly or exclusively for the purpose of the business of the co-operative society. Since, the donations had not direct nexus with the business activities of the co-operative society they are to be added back to the income of the appellant.

20. Being a credit cooperative society there are lot of social obligations and required to fulfil the social responsibilities of the society towards the members. Therefore the appellant society has paid these donations. The society has neither changed the facts nor it hided any of the expenditure. It is the not the AO who decides about how the person should do business, it is not open for the AO to step into the shoes of the appellant and do the business. Therefore the objection of the AO in respect of the disallowance made that it is not required to be done for the business of the appellant is highly illegal, invalid and out of his jurisdiction and therefore the appellant request to allow the expenditure claimed and delete the addition made by the AO in this regards.

21. Notwithstanding anything mentioned in above para, even otherwise, if the expenses are disallowed, it would ultimately result in increase in gross total income, which is completely deductible under section 80P. Thus, the deduction u/s. 80P in case of assessee shall have been allowable on the extended income (generated by disallowing such donations). Considering in the settled law on this issue, I humbly request your kindness to allow deduction under section 80P on extended income.

22. The AO further contended that the records show that the appellant had not made the payments of Rs. 12,34,504/- of employee's contribution to the funds within the due dates. On enquiring the appellant, the appellant replied that the amount deducted as contribution of employee for ESIC and Provident Fund was paid and the said amount was credited to employee's account under the respective schemes on the dates specified in the Audit Report. As per Section 43B of Income Tax Act 1961, any sum though the payment is delayed, if such payment is made on or before due date of furnishing the return of income shall be allowable as deduction. Since the sum was deposited to the respective funds before the due date of furnishing of the return of income the same shall be allowed as deduction under the Income Tax Act. The assessing Officer relying on section 36(1)(va) disallowed all those payments which are deposited after due date
For sake of convenience, section 36(1)(va) & section 43B are reproduced in verbatim;

<u>Section 36(1)(va):</u>-

"Any sum received by the assessee from any of his employee to which the provision of sub-clause(x) of clause (24) of section 2 apply, if such sum is credited by the assesse to the employee's account in the relevant fund or funds on or before the due date.

Explanation.-For the purpose of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issue thereunder or under any standing order, award, contract of service or otherwise;]"

Section 43B of Income Tax Act 1961, provides that:-
(b) Any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees.

Therefore, combine reading of section 36(1)(va) and 43B culls out that no disallowance should be made if appellant has contributed to fund before filing of return of income.

Out view finds support from the judgment of Hon'ble Bombay High Court in the case of CIT Vs. Hindustan Organic Chemicals Ltd. dated 27/06/2014. Wherein Bombay High Court held that the late payment of employee's contribution is covered within the purview of section 43B and hence it is allowable even if deposited before filing of return of income.

The Assessing Officer was also apprised about judgment of Jurisdictional High Court. However, the Assessing Officer disregarded binding judicial precedent without assigning any reason. The Assessing Officer relying on the Apex Court decision in case of CIT Vs. Allom Extrusions Ltd. (2009) (316 ITR 306) made impugned disallowances.

Aforementioned judgment of the jurisdictional Bombay High Court has also considered the Hon'ble Supreme Court Judgment of Allom Extrusions Ltd. and dismissed departmental appeal.

Recently, the Hon'ble Supreme Court in the case of Pr. CIT Vs. Rajasthan State Beverages Corporation Ltd. 250 Taxman 16 (2017) (SC), dismissed department's SLP on very same issue. Order enclosed for your kind reference.

The appellant relies on the below mentioned judgments of Supreme Court and High Courts.

i. *Pr. CIT Vs Rajsthan Beverages Corporation (SC) (2017)*

ii. *CIT Vs. Hindustand Organics Chemicals (Bom.) (Income Tax Appeal No. 399 of 2012)*

iii. *CIT Vs Spectrum Consultants India (P) Ltd. (2014) (Kar)*

iv. *CIT Vs State Bank of Bikaner and Jaipur (2014) 363 70 (Raj)*

Considering plethora of judgments on said issue, we humbly request your kindness to kindly revoke impugned disallowances.

23. The provision of section 80P(2)(a) read as under

> *"1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section(2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.*
>
> *2) The sums referred to in sub-section (1) shall be following namely :-*
>
> *a) In the case of a co-operative society engaged in-*
>
> *i) Carrying on the business of banking r providing credit facilities to its members, or*
>
> *ii) a cottage industry, or*
>
> *iii) the marketing of agricultural produce grown by its members, or*
>
> *iv) the purchase of agricultural implements, seeds, livestock, or other articles intended for agriculture for the purpose of supplying them to its members, or*
>
> *v) the processing, without the aid of power, of the agricultural produce of its members, or*
>
> *vi) the collective disposal of the labour of its members, or*
>
> *vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supply them to its member the whole of the amount of profits and gains of business attributable to any one or more of such activities."*

From the reading of above provisions of Section 80P(2), it is clear that provisions of Section 80P(2)(a)(i) are specifically applicable to the assessee being co-operative society engaged in providing credit facilities to its members.

Accordingly, where an assessee is a co-operative society, its entire profit and gains from the activities mentioned above shall be eligible for deduction under Section 80P(2)(a).

24. In view of the foregoing submissions and explanation, it is respectfully submitted that the expenses incurred by the appellant are for the purpose of business of the appellant and hence eligible for deduction under Section 80P(2)(a). Even if your Honour deems it fit that such expenses should be disallowed and hence added to the total income of the appellant and thereby increasing the total income of the appellant, the same shall be eligible for deduction under Section 80P(2)(a) being profits and gains of business of the appellant. Hence your honor is request to consider the matter in above perspective and kindly delete the additions made by the learned AO or allow the same as deduction u/s. 80P(2)(a)(i) of the Act.

25. Accordingly, it is well proved that the AO, with prejudice mind, has made additions to the total income of the appellant without in depth verification of the section and facts of the case. Therefore, the addition made by the Ld. AO with prejudice mind in bad in law, untenable and required to be deleted."

4. The conclusion drawn by the learned CIT(A) by accepting the claim of the assessee and by deleting the addition made under section 80P of the Act, are reproduced below:–

"5.0 Ground No.1 : The first addition relates to disallowance of provision for bad and doubtful debts debited by the appellant in its Profit and Loss Account to the tune of Rs. 2,65,00,000/-. During the year under consideration, the appellant has debited to the profit and loss account an amount of Rs. 2,65,00,000/- as a provision for bad and doubtful debts. The Assessing Officer disallowed the aforementioned provision by quoting that the appellant is a credit co-operative society and not a co-operative bank, hence it is not eligible to make a provision for bad debts and contingencies. The Assessing Officer also highlighted the factum that the Income Tax Statute expressly provides for such provisioning under section 36(1)(viia). But, said provisioning is allowed only in the case of Schedule banks, non-scheduled banks and a co-operative bank. The appellant being a Co-operative Credit Society, it is outside the ambit of section 36(1)(viia). The Assessing Officer also referred to the State enactment of Maharashtra Co-operative Societies Act, 1960 and Maharashtra Co-operative Societies Rules 1961, which does not mandate or provides for similar provisioning. During the appellate proceedings the AR did not submit anything contrary to rebut the aforementioned fact finding and jurisprudence. Considering the unambiguous provisions of Income Tax Statute 36(i)(viia) and absence of any such mandate in the State Act, I am of considered opinion that the provision made by the appellant cannot be allowed as an revenue expenditure.

5.1 The other submission which the AR has articulated during the appellate proceedings, pertains to the allowance of deduction under section 80P on the extended income due to the disallowance of the above provision made by the appellant. It was submitted during the appellate proceedings that the deduction under chapter VIA of the statute is allowed on the gross Total Income and deduction under section 80P covered under chapter VIA. The appellant further submitted that even through certain expenses are disallowed, the resultant impact will it will be increase in the net profit of the appellant from the business activity. The appellant also relied on an order of CIT(A)-2, Nagpur in the case of M/s. Sanghmitra Nagri Sah Pat Sanstha Ltd. dated 21.05.2018 [CIT(A)-2/229/2014-15] wherein the assessee was allowed deduction under section 80P on extended income.

5.2 The appellant has also relied on the judgment of the Jurisdictional Pune Bench of ITAT in case of Jay Tula Bhavani Sah. Patpedhi V/s ITO, I.T.A. No. 979/PN/2010 dated 30.12.2011, which has also considered the judgment of the High Court in case of Gem Plus Jewellery India Ltd. holding that the deduction u/s. 80P shall be allowed on the extended income also. Similar view was also taken by Pune Bench in case of DCIT V/s. Bora Agro Foods in ITA No. 1438/PN/2010 dated 31.03.2011

5.3 I have gone through the difference judgments relied by the appellant. The section 4 of the Income Tax Act is a charging section. Section 5 lays down the scope of total income and section 14 classifies income under five heads on income. The statute also provides for certain 'deductions in respect of certain incomes' this is provided under chapter VI-A. The chapter VI-A is further dividend in three parts (A, B & C). Part A provides general guidelines for computing deduction. Part B enlist all payments for which deduction can be claimed on payment bais from gross total income (e.g. deduction u/s. 80C). Part C enlist certain business and sector specific deductions. In present case deduction is claimed under section 80P which falls under Part C of the Chapter VI-A. The Part-A-which lays down mode of computation deduction, stipulates in section 80A(1) 'In computing the total income of an assessee there shall be allowed from his gross total income, in accordance with and subject to the provision of this chapter, the deduction specified in 80C to 80U'. Therefore, the act has clarified that deduction under chapter VI-A is allowed from gross total income. The Part A of Chapter VI-A also defines 'gross total income' in section 80B(5), 'gross total income means the total income computed in accordance with the provisions of the Act, before making deduction under this chapter'. Therefore, the statute has clarified that the total income computed after applying all the provisions of the Act, will be considered as "Gross Total Income".

5.4 The total income of the assessee will be aggregate of income computed and assessed under all heads of income. Thus, when any expenditure is disallowed it would get added back in the income under the head business and profession (if the expenditure relates to that business) and shall become a part of gross total income of the assessee. On this income, the deductions under Chapter VI-A will be allowed. Section 80P(2)(a)(i) provides 100% deduction on the profit and gains of business attributable to the business of providing banking and credit facilities to the members of society. Therefore, even if certain expenses are disallowed, it will result in increase in gross taxable income and deduction under section 80P, would be allowable on 100% of such gross taxable income.

5.5 This jurisprudence is also endorsed by the Pune Tribunal in the case of Jai Tuljabhavani Sah Patpedhi v/s. ITO, where the appellant was also as co-operative credit society claiming deduction under section 80P. The relevant para of this judgment is as follows:-

> *3. The next issue pertains to the claim of deduction u/s. 80P in respect amount disallowed u/s. 40(a)(ia) of the Act. This issue is covered in favour of the assessee by decision of co-ordinate Bench of This Tribunal in the case of Dy. CIT Vs. Bora Agro Foods in ITA No. 1438/PN/2010 for A.Y. 2007-08 wherein vide its order dated 31-3-2011, the Tribunal has decided the issue in favour of the assessee by observing as under*

"3. Having gone through the first appellate order, we find that the issue raised is fully covered by the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs. Gem Plus Jewellery India Ltd., in ITA No. 2426 of 2009 dated 21-3-2010 holding that the appellant was eligible for additional claim us/. 10A due to enhancement of income of account of disallowance us/. 43B of the Act. The Hon'ble Igh Court was pleased to hold therein that this enhancement resulted in increase in the business profit of the assessee which was eligible for deduction u/s 10A. The Bombay Bench of the Tribunal in the case of Saba Software Pvt. Ltd. Vs. ITO in ITA No. 1454/Bom/2009 dated 27-1-2010 has also given similar decision. Following these decisions as well as decision Pune Bench of the Tribunal in the case of Veritax Software India Ltd. ITA No. 135 and 1374/PN/2006 in this respect of Ld. CIT(A) has allowed the claimed deduction u/1. 10B of the Act to the assessee on the addition made by way disallowance u/s. 40(a)(ia) of the Act made on account of non-deduction of TDS. We thus do not find reason to interfere with the first appellate order on the issue. The same is upheld. The issue is thus decided against the revenue. Related grounds no. 1 to 5 involving the issue are this rejected".

4. We also find that the aforesaid decision of the Tribunal in the case of Bora Agro Foods (Supra) has been followed by co-ordinate Bench of the Tribunal in case of Dy. CIt Vs. Shri Agrasen Sah. Patsanstha Maryadit, Dhule in ITA No. 1459 and 1460/PN/2005 for AY 1999-00 and 2000-01 vide its order dated 30-6-2011. Similar view has been taken by ITAT Mumbai 'E' Bench in the case of S.B. Builders and Developers Vs. ITO (2011) 50 DTR 299. Fact being similar, so following the reasoning given in the aforesaid decisions of various Benches of the Tribunal, we direct the authorities below to allow the claim of deduction u/s. 80P made by the assessee on enhanced income.

5.6 Facts being similar and as the AO did not pointed out that the appellant is having any other income other than the income from banking activity of the society which in turn is the income from banking activity of the appellant, so following the reasoning given in the aforesaid decision of various Benches of the Tribunal, I direct the Assessing Officer to allow the claim of deduction u/s 80P made by the assessee on the extended income. Considering the aforementioned decision and facts of the case, the disallowance made of Rs. 2.65.00.000/- is hereby deleted.

6.0 Further, the AO has made another disallowance made by the Assessing Officer toward Investment Fluctuation Expenses to the tune of Rs. 82,12,803/-. The appellant has debited an amount of Rs. 82,12,803/- towards Investment Fluctuation Reserves in its Profit and Loss Account. The appellant stated that the society had invested an amount of Rs. 2,82,12,803/- Samta Sahakari Bank Ltd. in fixed deposit. It was further submitted that the aforesaid bank has declared bankruptcy and was pushed to liquidation by the RBI. The appellant has partially debited an amount of Rs. 82,12,803/- as bad debit under the head Investment Fluctuation expenses. The Assessing Officer contended that interest income on deposits made with banks is not attributable to the credit income of the co-operative society and accordingly it is outside the scope of section 80P. To buttress his view point, the Assessing Officer relied on the precedents of Basaweshwar Credit Co Operative Society Ltd. Vs. CIT (2014) (47 Taxmann.com 189). The

Assessing officer also took support of the judgment of the Hon'ble Supreme Court in case of Totagar's Co-operative Sale Society Ltd. v/s ITO (2010) 188 Taxman 282 (SC). All along the Assessing Officer has tried to make out a case that the appellant society has parked surplus funds that are not required immediately for business into fixed deposits and accordingly interest earned on such funds would come under the category of 'Income from Other Sources' taxable under section 56 of the I.T. Act 1961 and thus it would not qualify for deduction as business income us.. 80P(2)(a)(i) of the I.T. Act, 1961.

6.1 As far as this issue is concerned, it seems that the Assessing Officer has misconceived facts of the case. The Assessing Officer has disallowed expenditure/provision by terming it as an income. None of the judgments relied by the Assessing Officer are germane to the facts of the case. All the judgments relied by the Assessing Officer pertain to the issue allowability of deduction under section 80P on the income earned by the appellant from parking their funds in non core business activities. In the present case, what the Assessing Officer sought to disallow is the expenditure/provision made by the appellant for the depletion in the realisable value of the investment. If the Assessing Officer opines that the certain expenditure claimed by the appellant is not allowable, the only recourses available to the Assessing Officer is disallowance of the expenditure. In the present case, if the said expenditure is disallowed, the ultimate impact will be increase in gross total income on the deduction under section 80P is allowable. As I have already discussed this issue at length above, same is not reproduced for the sake of brevity. Hence, the Assessing Officer is directed to allow 80P deduction on the extended income computed by the virtue of this disallowance.

6.2 To sum up, the disallowance of Rs. 3,47,12,803/- [Rs. 2,65,00,000/- + Rs. 82,12,803/-] as discussed in Para-5 and 6 above are deleted, and the Ground No. 1 is allowed.

7.0 Ground No. 2 : This addition made pertains to prior period adjustment of Rs. 23,86,382/-. During the year under consideration, the appellant has incurred certain expenditure of Rs. 63,02,012/-. The appellant has also discloses the income earned in respect of the same of Rs. 39,15,000/- in the return of income filed by it. The appellant netted this income and expenditure and debited resultant excess expenditure as a prior period expenses. The Assessing Officer contended that as the appellant follows a mercantile system of accounting, only those expenditure relating to the income of the current year will be allowed as expenditure. Accordingly, expenditure of earlier year cannot be allowed ass expenditure in the current year. The Assessing Officer further stated that the appellant did not submit any evidence to co-relate the fact that expenditure incurred in the past year in crystalized during the current assessment year. Accordingly. Assessing Officer disallowed prior period expenses of Rs. 23,86,382 debited to the profit and loss account.

7.1 As far as the disallowance of the prior period expenditures is concerned, the Assessing Officer is of the opinion that the prior period expenditure is not allowable expenditure. The appellant has submitted

that prior period expenditure even if not claimed in the earlier year should be allowed in the current year by relying on the judgment of Delhi High Court in the case of CIT Vs Vishnu Industrial Gases (2008)(Del)(HC), which has relied on the judgment of Bombay High Court in the case of CIT Vs Nagri Mills Co Ltd. (1958) 33 ITR 681 (Bom)

7.2 The judgment relied by the appellant is delivered on the jurisprudence that the Assessing Officer should not dispute the year of addition, if the rates of tax and impact of tax remains same. The relevant para of the order, where in the Hon'ble Delhi High Court has reproduced para of Bombay High Court judgment is as under:–

> *"We have often wondered why the income tax authorities, in a matter such as this where the deduction is obviously a permissible deduction under the Income Tax Act raise disputes as to the year in which the deduction should be allowed. The question as to the year in which a deduction is allowable may be material when the rate of tax chargeable on the assessee in two different years is different; but in the case of income of a company, tax is attracted at a uniform rate, and whether the deduction in respect of bonus was granted in the assessment year 1952-53 or in the assessment year corresponding to the accounting year 1952, that is in the assessment year 1953-54, should be a matter of no consequence to the Department; and one should have thought that the Department would not fritter away its energies in fighting matter of this kind. But, obviously, judging from the references that come up to us every now and then, the Department appears to delight in raising points of this character which do not affect the taxability of the assessee or the tax that the Department is likely to collect from him whether in one year or the other.?*

7.3 In the present case, the appellant society enjoys 100% deduction under section 80P. Therefore, the impact of prior period expenses is tax neutral. The prior period income and corresponding expenses even if it would have been reported in the year of accrual, still it would have enjoyed 100% deduction by the virtue of section 80P. Therefore, the exercise of the Assessing Officer in discriminating current year income and prior period income in my opinion is a futile exercise. Even if the prior period expenses are disallowed, the ultimate effect will be increase in gross total income, which is any way 100% deductible under section 80P. Therefore, the disallowance made by the Assessing Officer on this count is dismissed.

8.0 Ground No. 3 : The another addition pertains to disallowance of expenditures on pigmy machines. The appellant has debited Rs. 18,84,568/- towards the purchase of Pigmy Machines. The Assessing Officer contended that the expenditure towards purchase of pigmy machines are in the nature of capital expenditures. The machines have along enduring benefits and thus it cannot be treated to be allowed as a revenue expenditure. Accordingly, the Assessing Officer the expenditure to the tune of Rs.18,84,568/-.

8.1 The appellant pleaded that the pigmy machines had a useful life of only one year and once given to the agents, they are not returned back by the agents. In this case, it seems that in order to eligible to claim an expenditure as a capital expenditure, it is necessary that it is in the form of asset which is being used and benefits being derived therefrom for succeeding years. As the pigmy machines durability last

for less than a year, it doesn't seem to have long enduring benefits to the appellant and thus the disallowance towards the expenditure on pigmy machines deserves to be allowed as revenue expenditure. Even otherwise, if same is allowed, the resultant impact will be increase in gross total income and for the detailed reasoning given above the entire gross total income will be allowed as a deduction under section 80P. Therefore, the disallowance made by the Assessing Officer under section 80P is revoked.

9.0 Ground No. 4 : This addition pertains to disallowance towards donation made by the appellant society. The appellant has made donation to various trusts, sangathans, mandals and during religious festivals amount to Rs. 4,35,105/-. The Assessing Officer contended that the aforesaid donations are not related to the business of the appellant. He stated that these expenditure has not nexus to any of the business activities, financial, real estate and health care of credit co-operative society and accordingly disallowed the donations amounting to Rs.4,35,105/-

9.1 In this regard, the AR failed to explain business nexus of the donations given by the society. The Assessing officer has rightly disallowed expenditure. However, the said expenses even though if disallowed will form a part of gross total income. The Assessing Officer's disallowance of expenses is upheld and accordingly the Assessing Officer is directed to consider same as a part of a gross total income of the appellant. The deduction under section 80P may be allowed in the light of above discussion. This ground is partly allowed for statistical purpose.

10. Ground No. 5 : This addition pertains to disallowance made by the AO towards PF/ESIC payment claimed by the appellant. The AO contended that the appellant had not made the payments of Rs. 12,34,504/- of employee's contribution to the funds within the due dates under the respective laws and thus it represents income us/. 2(24)(xi) r.w.s. 36(1)(va) and accordingly made disallowances to the tune of Rs. 12,34,504/-. During the appellate proceedings, the appellant submitted that since the sum was deposited to the respective funds before the due date of furnishing the return of income the same shall be allowed as deduction under the income Tax Act for this proposition the appellant relied on the few judgments of High Courts. I have considered all the judgments and same are not applicable to the specific facts of the case. The section 36(1)(va) uses a very clear and unambiguous langue. Therefore, the Assessing Officer has rightly disallowed the late payment of PF/ESIC contribution under section 36(1)(va). The only issue left is whether the amount disallowed will for part of gross total income. The jurisdictional Bombay High Court in the case of CIT V/s Gem Plus Jewellery India Ltd. (330 ITR 175) has held that the extended income by disallowing employer's as well as employee's contributions towards provident fund/ESIC will be allowed exemption under section 10A. The relevant para of this judgment read as under :

> *As a matter of fact the question of law which is formulated by the revenue proceeds on the basis that the assessed income was enhanced*

> *due to the disallowance of the employer's as well as the employees' contributions toward Provident Fund/ESIC and the only question which is canvassed on behalf of the revenue is whether on that basis the Tribunal was justified in directing the Assessing Officer to grant the exemption under section 10A. On this position, in the present case it cannot be disputed that the net consequence of the disallowance of the employer's and the employee's contribution is that the business profit have to that extent been enhanced. There was, as we have already noted, an add-back by the Assessing Officer to the income. All profits of the unit of the assessee have been derived from manufacturing activity. The salaries paid by the assesse, it has not been disputed, related to the manufacturing activity. The disallowance of the provident fund/ESIC payments has been made because of the statutory provisions-section 43B in the case of employer's contribution and section 36(v) read with section 2(24)(x) in the case of the employee's contribution which has been deemed to be the income of the assessee. The plain consequence of the disallowance and the add back that has been made by the Assessing Officer is an increase in the business profits of the assessee. The contention of the revenue that in computing the deduction under section 10A the addition made on account of disallowance of provident fund/ESIC payments ought to be ignored cannot be accepted. No statutory provision to that effect having been made, the plain consequence of the disallowance made by the Assessing Officer must follow. The second question shall accordingly, stand answered against the revenue and in favour of the assessee.*
>
> *10.1 The above judgment is in context of provisions of section 10A. Similarly, even if provisions of section 80P are to be considered, it shall have the similar effect. Thus even if the contentions of the Assessing Officer are considered and disallowances are made towards ESIC payments, the extended income should be allowed to be deduction U/s. 80P. Accordingly this disallowance made by the Assessing Officer under section 36(1)(va) is upheld, but the amount disallowed should be added to the gross total income and deduction under section 80P may be allowed."*

5. The Revenue being aggrieved by the order so passed by the learned CIT(A), filed appeal before the Tribunal.

6. Before us, the learned Departmental Representative assailing the impugned order, vehemently objected to the conclusion drawn by the learned CIT(A) in its impugned order. He relied on the order passed by the Assessing Officer.

7. Per–contra, the learned Counsel for the assessee, apart from relying upon the findings of the learned CIT(A) reproduced above, following are the

arguments made by the learned Counsel for the assessee during the course of hearing:–

> *"The reasoning given in the aforesaid decision of various Benches of the Tribunal, the learned CIT(A) has rightly deleted the addition made by AO. Considering the aforementioned decision and facts of the case, the issue of the assessee was also covered by the following judgments*
>
> *1. CIT V/s Gem Plus Jewellery India Ltd. (330 ITR 175) High Court of Bombay :-*
>
> *In this case Assessing Officer enhanced income by disallowing employer's as well as employee's contribution towards provident fund/ESIC, it was held that exemption under section 10A had to be granted on such enhanced income.*
>
> *Relevant Para:-*
>
> *As a matter of fact the question of law which is formulated by the revenue proceeds on the basis that the assessed income was enhanced due to the disallowance of the employer's as well as the employee's contribution towards Provident Fund/ESIC and the only question which is canvassed on behalf of the revenue is whether on that basis the Tribunal was justified in directing the Assessing Officer to grant the exemption under section 10A. On this position, in the present case it cannot be disputed that the net consequence of the disallowance of the employer's and the employee's contribution is that the business profits have to that extent been enhanced. There was, as we have already noted, an add back by the Assessing Officer to the income. All profits of the unit of the assessee have been derived from manufacturing activity. The salaries paid by the assessee, it has not been disputed, related to manufacturing activity. The disallowance of the provident fund/ESIC payments has been made because of the statutory provisions – section 43B in the case of the employer's contribution and section 36(v) read with section 2(24)(x) in the case of the employee's contribution which has been deemed to be the income of the assessee. The plain consequence of the disallowance and the add back that has been made by the Assessing Officer is an increase in the business profits of the assessee. The contention of the revenue that in computing the deduction under section 10A the addition made on account of the disallowance of the provident fund/ESIC payments ought to be ignored cannot be accepted. No statutory provision to that effect having been made, the plain consequence of the disallowance made by the Assessing Officer must follow. The second question shall accordingly stand answered against the revenue and in favour of the assessee.*
>
> *2. CIT V/s Bora Agro Foods (ITAT Pune)*
>
> *In this case the issue pertained to the claim of deduction u/s. 80A(4) in respect of the amount disallowed u/s. 40(a)(ia) of the Act. This issue was addressed in favour of the assessee by the Pune Bench by observing as under :-*

3. Having gone through the first appellate order, we find that the issue raised is fully covered by the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs. Gem Plus Jewellery India Ltd. in ITA No. 2426 of 2009 dated 21.03.2010 holding that the appellant was eligible for additional claim u/s. 10A due to enhancement of income on account of disallowance u/s. 43B of the Act. The Hon'ble High Court was pleased to hold therein that the enhancement resulted in increase in the business profit of the assessee which was eligible for deduction u/s 10A. The Bombay Bench of the Tribunal in the case of Saba Software Pvt. Ltd. Vs. ITO in ITA No. 1454/Bom/2009 dated 27/01/ 2010 has also given similar decision. Following these decisions as well as decision of Pune Bench of the Tribunal in case of Veritas Software India Ltd. ITA No. 135 and 1374/PN/2006 in this respect the Ld. CIT(A) has allowed the claim deduction u/s. 10B of the Act to the assessee on the addition made by way of disallowance u/s. 40(a)(ia) of the Act made on account of non-deduction of TDS. We thus do not find reason to interfere with the first appellate order on the issue. The same is upheld. The issue is thus decided against the revenue.

3. Jay Tuljabhavani Sah. Patpedhi Pragati V/s ITO (ITAT Pune)

Relevant Para :-

We also find that the aforesaid decision of the Tribunal in the case of Bora Agro Foods (Supra) has been followed by co-ordinate Bench of this Tribunal in the case of Dy. CIT Vs. Shri Agrasen Sah. Patsantha Maryadit, dhule in ITA No. 1459 and 1460/PN/2005 for A.Y. 1999-00 and 2000-01 vide its order dated 30.03.2011. Similar view has been taken by ITAT Mumbai 'E' Bench in the case of S.B. Builders and Developers Vs. ITO 92011) 50 DTR 299. Fact being similar, so following the reasoning given in the aforesaid decision of various Benches of the Tribunal, we direct the authorities below to allow the claim of deduction u/s. 80P made by the assessee on enhanced income.

In view of the above the CIT(A) was correct in allowing the appeal with respect of addition made by AO U/s. 80(P)(2) were rightly deleted

The deduction U/s. 80P(2)(a)(i) was also allowed in the A.Y. 2010-2011 & AY 2011-2012 in the order of ITAT vide ITA No. 08 & 09/Nag/2015 the copy of order on Page-37 To 41 of the Paper Book, therefore on the basis of consisting principle the same were allowable. The issue of the assessee were also covered in favour of the assessee by judgment of Hon'ble Bombay High Court in case of CIT –Vs.- Quest Investment Advisors (P) Ltd. reported on (2018) 409 ITR 545 (Bom).

"Business expenditure-Allowability-Apportionment against professional income and capital gains vis-à-vis rule of consistency-Principle accepted by the Revenue for ten earlier years and for subsequent years to the asstt. Yrs. 2007-08 and 2008-09 was that the entire expenditure is to be allowed against business income and no expenditure is to be allocated to capital gains-Once this principle was accepted and consistently applied and followed, the Revenue was bound by it-Thee is

no change in the principle which has been consistently applied for the earlier assessment years and also for the subsequent assessment years- Therefore, the view of the Tribunal in allowing the assessee's appeal on the principle of consistency cannot in the present facts be faulted with- Bharat Sanchar Nigam Ltd. & Anr. vs. Union of India & Ors. (2006) 201 CTR (SC) 346: (2006) 282 ITR 273 (SC) applied.

Conclusion – Principle accepted by the Revenue for ten earlier years and four subsequent years was that the entire expenditure is to be allowed against business income and no expenditure is to be allocated to capital gains; view of the Tribunal in allowing the assessee's appeal on the principle of consistency cannot in the present facts be faulted with."

8. In view of the foregoing discussions in the light of the aforesaid judicial pronouncements relied upon by the learned A.R. for the assessee and keeping in view the overall facts and circumstances of the case as well as the conclusion drawn by the learned CIT(A), we do not find any infirmity in the order passed by the learned CIT(A) which we hereby uphold by dismissing the grounds raised by the Revenue. Thus, all the grounds of appeal raised by the Revenue are dismissed.

12. In the result, appeal for the A.Y. 2014–15 filed by the Revenue is dismissed.

Order pronounced in the open Court on 27/11/2024

Sd/-	**Sd/-**
V. DURGA RAO	**K.M. ROY**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

NAGPUR, DATED: 27/11/2024

Copy of the order forwarded to:

(1) The Assessee;

(2) The Revenue;

(3) The PCIT / CIT (Judicial);

(4) The DR, ITAT, Nagpur; and

(5) Guard file.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

Sr. Private Secretary
ITAT, Nagpur