

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “SMC”, MUMBAI
BEFORE SHRI. BR BASKARAN, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 1508/MUM/2024 (A.Y: 2013-14)**

**Presidential Plaza Co-op Vs. ITO Ward 27(2)(1)
Premises Society Limited** Vasi Railway Station Building,
Ground Floor, LBS Marg, Navi Mumbai – 400703.
Ghatkopar, West, Mumbai –
400086.

PAN: AAAAP6220C

(Appellant)

(Respondent)

Assessee Represented by	:	Shri. Rajesh Shah
Department Represented by	:	Shri. Umesh Chandra Sinha
Date of conclusion of Hearing	:	11.11.2024
Date of Pronouncement	:	12.11.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 29.02.2024 of Learned Commissioner of Income Tax, Appeal ADDL/JCIT (A)-1 Gurugram [hereinafter referred to as the “CIT”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the



Act”] for A.Y. 2013-14, wherein the appeal was dismissed on account of delay of 9 years and the Ld. CIT(A) refused to condone the delay.

2. The facts in brief are that the assessee is cooperative society registered under Maharashtra Cooperative Society Act, 1960. The assessee filed a return of income declaring Rs. 6,94,120/- income after claiming deduction under Section 80P of the Act amounting to Rs 4,91,671/- for the relevant A.Y. 2013-14, but the same was disallowed u/s. 143(1) on the ground that the ITR was not filed within time.
3. The appeal was filed before the Ld. CIT(A) wherein the assessee has raised following grounds of appeal:

- “1 *On the fact and circumstances of the case and in law C.P.C. Bangalore erred in disallowing deduction U/ S 80P amounting to Rs.491671/- of the Income Tax Act 1961, CPC is also erred in considering due date of filing is 05/08/2013, however as accounts of all co-operative societies are subject to statutory audit provisions under respective governing laws, therefore due date for filing return of income under the Income-tax Act, 1961 is September 30 of every year.*
2. *On the fact and circumstances of the case and in law C.P.C. Bengaluru erred in disallowing deduction US 80P amounting to Rs.05/08/2013 of the Income Tax Act 1961.*
3. *On the fact and circumstances assessing officer erred in making adjustment in the Return of income without issuing notice U/S 143(1) (a) of the income tax act 1961.*



4. *On the facts and circumstances of the case and in law, the learned Assessing officer erred in determining a demand of Rs.147690 u/ s 143(1).*
4. The grounds were raised before the Ld. CIT(A) stating that the Ld. AO has erred in not considering that the date for filing ITR by the society was 30th September as its accounts were subject to audit. The only question before us is whether during the pendency of rectification application, the Ld. CIT(A) was justified for dismissing the appeal on ground of delay?
5. During arguments, the Ld. DR has submitted the copy of the rectification order dated 22.10.2024 and is reproduced as under:

“In this case, the assessee filed return of income for AY 2013-14 on 13.09.2013 declaring total income of Rs. 6,94,120/-. The Return of Income was processed u/s 143(1) on 04.06.2014 at income of Rs. 11,85,790/-.

2. *The assessee filed rectification application on 05.01.2015 wherein the assessee stated that in the Intimation u/s 143(1) dated 04.06.2014, a demand of Rs. 1,47.690/- was erroneously raised. On perusal, the contention of the assessee is found to be correct and it is found that demand was raised due to noncredit of deduction u/s 80P(2)(d) claimed by the assessee. Since the mistake being apparent from record, rectification order is being passed u/s 154 of the Act and the same mistake is being rectified accordingly. The assessed income of the assessee for the year under consideration is rectified to Rs. Rs. 6,94,120/-.*

3. *Rectified accordingly. Give credit for prepaid taxes after due verification.”*

6. In view of this rectification order, the Ld. AR on behalf of the assessee sought the permission of this Court and made submissions to



withdraw the appeal stating that the appeal in view of the order of the rectification, has become infructuous.

7. The Ld. DR has no objection to the submissions of the Ld. AR. In view of these facts and passing of the rectification order in favour of the appellant/assessee, the appeal has become infructuous and accordingly dismissed.
8. In the result, appeal filed by the assessee is dismissed in the above terms.

Order pronounced on 12.11.2024

Sd/-
(BR BASKARAN)
(ACCOUNTANT MEMBER)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Mumbai / Dated 12.11.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//



ITA No. 1508/Mum/2024
Presidential Plaza Co-op Premises Society Ltd.; A.Y. 2013-14

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai