

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER  
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2113/PUN/2024

निर्धारण वर्ष / Assessment Year : 2020-21

Income Tax Officer, Kudal	Vs.	Sindhudurg District Primary Teachers Co-operative Credit Society, Sankalp Siddhi, 31 Oras, Sindhudurg Nagari Kudal, Sindhudurg – 416520 Maharashtra PAN : ACEPP5560A
Appellant		Respondent

Assessee by	:	Shri Pramod S. Shingte
Revenue by	:	Shri Arvind desai
Date of hearing	:	02.12.2024
Date of pronouncement	:	04.12.2024

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

This appeal at the instance of Revenue is directed against the order passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by the National Faceless Appeal Centre, Delhi [in short 'Id.CIT(A)'], dated 06.08.2024 which is arising out of the Penalty order framed u/s.270A of the Act dated 13.01.2023.

2. Briefly stated, the facts of the case are that the assessee is a Cooperative Society registered under the Maharashtra Coop. Societies Act, 1960. It is engaged in the business of banking and providing credit facilities to its members and earning interest from the members as well as the interest from the Cooperative Banks out of its surplus funds. The return of

income for the A.Y. 2020-21 was filed on 28.10.2020 declaring Nil income after claiming deduction u/s.80P of the Act. The case was selected for complete scrutiny and the assessment was completed u/s.143(3) r.w.s.144B denying deduction u/s.80P(2)(d) of the Act on the ground that interest income earned from Cooperative Banks does not qualify for deduction. Therefore, the AO vide order dated 13.01.2023 levied penalty of Rs.65,16,796/- u/s.270A for under-reporting of Income.

3. Aggrieved assessee preferred appeal before the First Appellate Authority who vide impugned order deleted the penalty by holding as under :

“5. Thus as evident when the basis on which the penalty had been levied by the AO has lost its legs in as much as the claim of the appellant has been allowed, the penalty levied u/s.270A is also not applicable and accordingly, the AO is directed to cancel the penalty levied u/s.270A of amounting to Rs.65,16,796/-. The sole ground is ruled in favour of the appellant.”

4. Further aggrieved, the Revenue is in appeal before the Tribunal.

5. We have heard both the sides and carefully perused the material on record. The Revenue filed the present appeal against the deletion of penalty by the Id.CIT(A). We find The Tribunal vide ITA No.582/PUN/2024 order dated 02.07.2024 (copy placed on record) dismissed the appeal filed by the Revenue against the allowability of claim made by the assessee u/s.80P(2)(d) of the Act. It is settled position of law that when the addition made in the assessment order, on the basis of which penalty for under reporting is levied u/s.270A, is deleted, no penalty can survive and the same is liable to be cancelled in the given facts of the case. We therefore put our imprimatur to the impugned order

passed by the Id.CIT(A). Accordingly, the grounds raised by the Revenue are dismissed.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on this 04<sup>th</sup> day of December, 2024.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> December, 2024.  
Satisfy

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.