

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

ITA No.3500/M/2024

Assessment Year: 2021-2022

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| M/s. Arihant Krupa Co-operative Housing Society Ltd., Plot 40, Sector 27, Kharghar, Navi Mumbai, Maharashtra-410210 PAN: AACAA6426B | Vs. | CIT Appeal NFAC, Delhi |
| (Appellant) | | (Respondent) |

Present for:

Assessee by : Shri Keyur Hindocha, Ld. A.R.
Revenue by : Shri Srinivas P, Sr. D.R

Date of Hearing : 25.11.2024
Date of Pronouncement : 25.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 09.05.2024, impugned herein, passed by the National Faceless Appeal Centre/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2021-22.

- 2.** There is 1 day delay in filling of this appeal, the same is condoned.
- 3.** At the outset, this Court observed that though in Form No.35, the Assessee in para-no.15, with regard to the delay of 83 days in filing the appeal before the Ld. Commissioner, has submitted as under:

“There is a delay in filing the appeal as there was some change in the management committee.”

However, the Assessee before the Ld. Commissioner has failed to demonstrate and substantiate the said reason for delay and therefore the Ld. Commissioner dismissed the appeal of the Assessee in limine and without going into the merits of the case.

- 4.** The Assessee therefore being aggrieved in in appeal. The Ld. Counsel Shri Keyur Hindocha demonstrated before this Court that there was some change in the management of the Assessee society and Mr. Lokesh Kumar Jha was appointed as a *“Treasurer”* to look after the case before the Ld. Commissioner, however, unfortunately Mr. Jha suffered was diagnosed with cancer and ultimately died on 5th June, 2024 and therefore proper and explainable cause remained to be shown before the Ld. Commissioner.

- 5.** The Id. DR though relied on the orders passed by the authorities below and refuted the claim of the Assessee but has not filed any contrary material to contradict the claim of the Assessee.

- 6.** Considering the peculiar facts and circumstances and the reason given by the Assessee as bonafide, unintentional and genuine, this Court is inclined to condone the delay occurred in filing the appeal before the Ld. Commissioner. Thus, the delay of 83 Occurred before Ld. Commissioner, is condoned.

7. Coming to the merits of the case, the Assessee submitted that in the subsequent years, the interest earned from Saraswat Co-operative Bank has been allowed by the Assessing Officer (AO) itself and therefore on the basis of parity, as the Assessee during the AY under consideration has also earned the interest of **Rs. 8,97,874** from the same bank and therefore the same may be allowed u/s 80P(2)(d) of the Act. The Ld. DR on the contrary refuted the claim of the Assessee. Considering the peculiar facts and circumstances in totality, as the AO in the subsequent years, has allowed the interest earned from Saraswat Co-operative Bank as involved in this case u/s 80P(2)(d) of the Act and there is no difference in facts and issues except variation in amounts involved in this case and the A.Ys. 2022-23 & 2023-24 and therefore the AO is directed to follow the consistency and consider the claim of the Assessee and allow the same on the same reasoning, as done in the A.Ys. 2022-23 & 2023-24.

8. In the result, the appeal filed by the Assessee stands allowed.

Order pronounced in the open court on 25.11.2024.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

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

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.