

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.264/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

**The Coimbatore City Cooperative
Bank Ltd,
No.191, Dr.Nanjappa Road,
Uppilipalayam, Coimbatore,
Tamil Nadu-641018
[PAN: AACFT9585B]**

**The Dy.Commissioner of Income Tax
Non-Corporate Circle-I,
Coimbatore**

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Ms.N.V.Lakshmi, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 01.07.2024

घोषणा की तारीख /Date of Pronouncement

: 10.07.2024

आदेश / O R D E R

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1058076838(1) dated 20.11.2023 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 20.11.2023 passed by NFAC, Delhi.

2.0 During the course of appellate proceedings the Ld.AR argued that no penalty u/s 270A was leviable since it was hit by the exemption by the prescribed in u/s 270A(6) on the premise that the assessee was under bonafide belief of availability of deduction u/s 80P(2)(d). It was further argued that in the earlier years as well as during the year under consideration the claim of the assessee u/s 80P(2)(d) stands allowed u/s 143(1) by the CPC. The assessee has submitted that alternatively no penalty is leviable in his case as it made a request for grant of immunity within the meanings of u/s 270AA. The assessee however submitted that the application for grant of immunity was made by it much after the passing of the penalty order in its case dated 16.03.2022.

3.0 The Ld.DR submitted that the Id.AO has rightly levied the penalty u/s.270A and that the Ld.CIT(A) has rightly sustained the same. A reference was made to the following extracts of AO's order :

".....4.3 It is seen from the submissions that the assessee claimed exempt income under Schedule-EI at Rs.1,09,42,989/-. On a perusal of the computation statement it is seen that the same represents the share of profit and interest on investment in cooperative Bank and the assessee

has categorized the same under "**Income with full exemption**". The relevant portion are reproduced below:

Income with full exemption

INCOME	SECTION	AMOUNT
Share in income from AOP/BOI	86	16,020/-
INTERES:- Interest on investment in		1,09,26,969/-
TOTAL EXEMPTED INCOME		1,09,42,969/-

4.4 As the assessee is a cooperative urban bank engaged in banking business as defined under Banking Companies Regulation Act, 1949, the assessee is not eligible for deduction u/s 80P(2)(d). Hence the claim of deduction of Rs. 1,09,26,969/- Is rejected.

4.5 Further the assessee has claimed the share of income from AOP/BOI of Rs. 16,020/- as exempt. But has not stated under which provisions the assessee made its claim as exempt. Further no details or the reasoning for the claim as exempt income is provided even for the SCN issued. Hence the same is not acceded to and rejected accordingly.

4.6 In view of this, the entire amount of Rs. 1,09,42,989/-, claimed

under Schedule-EI as exempt is added to the Total Income of the assessee and brought to tax.”

4.0 It was submitted that the assessee had shown the impugned interest of Rs.1,09,42,989/- under the schedule-EI categorizing the same as income with full exemption. It was argued that the AO has rightly concluded that since the assessee is a cooperative bank and not a cooperative society, deduction u/s 80P(2)(d) was not available to it. The claim thus fell under the mischief of section 270A for imposition of penalty.

5.0 We have heard the rival submissions in the light of facts of the case and materials brought on records. It is an undisputed fact of the case that the assessee is a cooperative bank and not a cooperative society, and therefore the deduction u/s 80P(2)(d) would not be available to it. Without prejudice it is seen that the assessee has shown the same under schedule-EI and hence ineligible for deduction. It is trite law that when provisions of the act are unambiguous, no interpretation thereof is permissible. The alternate arguments of the assessee qua immunity u/s 270AA is also non-maintainable. Admittedly, the assessee filed the application much after the passing of the penalty order and thus leading

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to a safe presumption of an afterthought. The assessment order u/s 143(3) was passed on 27.12.2019 and the assessee was eligible to file an application for immunity u/s 270AA by 31.01.2020. Accordingly, it is held that the penalty order u/s. 270A dated 16.03.2022 does not require any interference at this stage. The order of Ld.CIT(A) 20.11.2023 is therefore confirmed and the appeal of the assessee stands dismissed.

6.0 In the light of the above, the appeal stands dismissed.

Order pronounced on 10th July, 2024 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T VARKEY)

न्यायिक सदस्य / **Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 10th July, 2024.

KB/-

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य / **Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF