



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 Nos.2206 and 2207/PUN/2024
Assessment Years : 2017-18 and 2018-19

Sandvik Asia Employees Coop. Credit Society Limited, Mumbai Pune Road, Dapodi, Pune – 411 012, Maharashtra PAN : AACTS9112M	Vs.	ITO, Ward-8(3), Pune
Appellant		Respondent

Assessee by	:	Shri Pramod S. Shingte
Revenue by	:	Shri Basavaraj Hiremath
Date of hearing	:	12.12.2024
Date of pronouncement	:	18.12.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

These two appeals by the assessee are directed against the separate orders both dated 28.06.2024 passed by the National Faceless Appeal Centre [in short "NFAC"] u/s.250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') in relation to the assessment years 2017-18 and 2018-19.



ITA Nos.2206 and 2207/PUN/2024
Sandvik Asia Employees
Coop Credit Society Ltd.

2. Identical grounds have been taken by the assessee in these appeals. We therefore proceed to dispose of the appeals by this consolidated order for the sake of convenience.

3. At the outset, we find the appeals are time barred by limitation by 53 days. The assessee has filed an affidavit stating that the hearing notices were sent on email id of the Tax Consultant whose services were discontinued by the assessee. Therefore, the assessee was unaware of the notices/orders framed which led to delay in filing the appeals. It is therefore prayed to condone the delay and admit the appeals for adjudication.

4. After hearing both the sides and taking into cognizance of the facts and circumstances, we are of the considered opinion that the delay in filing the appeals deserve to be condoned. Here, we would like to quote the decision of Hon'ble Jurisdictional High Court in the case of *Vijay Vishin Meghani vs. DCIT, 389 ITR 250 (Bom.)* wherein it was held that in the matter of condonation of delay an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he



*ITA Nos.2206 and 2207/PUN/2024
Sandvik Asia Employees
Coop Credit Society Ltd.*

is careless, negligent and his conduct is lacking in bonafides. We therefore condone the delay of 53 days in filing the appeals and proceed for adjudication of the appeals.

ITA No. 2206/PUN/2024 :

5. Facts in brief are that the assessee filed the return of income for the A.Y. 2017-18 on 19.09.2017 declaring total income at Nil after claiming deduction u/s.80P of the Act at Rs.96,53,608/-. The return was processed by the CPC u/s.143(1). Thereafter, the case was selected for Limited Scrutiny under CASS for verification of Large deduction under Chapter-VI and low income in comparison to high loans/advances/investment in shares. Statutory notices u/s.143(2)/142(1) were issued to the assessee through ITBA module requiring the assessee to produce the details of loans and advance, details of members etc. The assessee neither complied with notice u/s.143(2) nor complied with notice u/s.142(1) of the Act. In the circumstances, the AO vide order dated 05.12.2009 completed the assessment u/s.144 of the Act. While doing so, the AO held that the assessee is not eligible to claim deduction u/s.80P(2)(d) of the Act in respect of any income by way of interest/dividends derived by the Cooperative Society from its investments with any other Cooperative Society. Thus,



ITA Nos.2206 and 2207/PUN/2024
Sandvik Asia Employees
Coop Credit Society Ltd.

he brought to tax the interest income earned by the assessee from PDCC Bank.

6. Aggrieved assessee preferred appeal before the ld.CIT(A)/NFAC who vide impugned order dismissed the appeal of assessee *in limine* for non-prosecution, without discussing anything on merits of the issue.

7. We have heard the rival submissions and perused the record placed before us. It is an admitted position that the assessee has neither participated in the proceedings before the AO nor before the ld.CIT(A)/NFAC which led to passing of *ex parte* orders by the authorities. It is also a fact that ld.CIT(A)/NFAC has not decided the appeal on merits as contemplated u/s.250(6) of the Act. As per the provisions of section 250(6) of the Act, the order of the CIT(A) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. However, the ld.CIT(A)/NFAC has not followed the provisions of section 250(6) of the I.T. Act. During the course of present hearing, the ld. Counsel for the assessee narrated the facts which prevented the assessee from representing its case before the authorities below. It is the submission of the ld. Counsel for the assessee that given an opportunity the assessee



ITA Nos.2206 and 2207/PUN/2024
Sandvik Asia Employees
Coop Credit Society Ltd.

is in a position to substantiate its case by filing the requisite details. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of Jurisdictional Assessing Officer with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details and adjudicate the issue afresh in accordance with law and then pass a speaking order. In view thereof, without dwelling into merits of the issue, we set-aside the impugned order. Assessee is also directed to remain vigilant and make satisfactory compliance to the notice(s) of hearing issued by AO and should refrain from taking adjournments unless otherwise required for reasonable cause. Effective grounds of appeal raised by the appellant are allowed for statistical purposes.

ITA No.2207/PUN/2024 :

8. The facts in the instant appeal remain same as that of A.Y. 2017-18 except variation in the interest amount earned from the Cooperative Bank. Here, the interest amount disallowed by the AO u/s.80P of the Act is Rs.24,78,323/-. In this assessment year, the assessee has participated in the proceedings before the AO and submitted the requisite details as called for. However, the ld.CIT(A)/NFAC dismissed the appeal *in limine* for non-



ITA Nos.2206 and 2207/PUN/2024
Sandvik Asia Employees
Coop Credit Society Ltd.

prosecution, without discussing anything on merits of the issue. Therefore, following the parity of reasoning given in ITA No.2206/PUN/2024 for A.Y. 2017-18, we deem it proper to restore the issue for the A.Y. 2018-19 as well to the file of Assessing Officer with similar directions. Ordered accordingly.

9. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 18th day of December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 18th December, 2024.

Satish

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.