



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

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2316/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Maharashtra Vij Kamgar Mahasangh Sahakari Pathasanstha Maryadit, Malkhare Arcase Talmajla, Sanskruiti Mandal Road, Khadekeshwar, Aurangabad-431001 Maharashtra PAN : AAAAV4630J	Vs.	ITO, Ward-1(6), Aurangabad
Appellant		Respondent

Assessee by	:	Shri Kishore Phadke
Revenue by	:	Shri Sourabh Nayak
Date of hearing	:	17.12.2024
Date of pronouncement	:	24.12.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal filed by the assessee pertaining to the assessment year 2017-18 is directed against the order dated 21.12.2023 passed by the National Faceless Appeal Centre, Delhi u/s.250 of the Income Tax Act, 1961 [in short 'the Act'] which in turn is arising out of Assessment order passed u/s.143(3) of the Act dated 26.12.2019.



2. At the outset, I notice that there is a delay of 264 days in filing of the appeal before this Tribunal. Ld. Counsel for the assessee has referred to the Affidavit given by Chairman of the assessee Cooperative Society stating that there was a reasonable cause which prevented the assessee to file the appeal in time. It is stated that the Management of the society got replaced on 20.11.2023 and the new Management was not aware of the pending income-tax proceedings. It is also stated that hearing notices were sent on the email ids pertaining to previous Tax consultant who failed to inform the society. The Ld. Departmental Representative opposed the arguments advanced with respect to condonation of delay.

3. Having heard both the sides and analysed the reasons mentioned in the affidavit, I find force in the contention of Ld. Counsel for the assessee that the assessee society was prevented to file the appeal within the due time. I, in the larger interest of justice, and on considering that the assessee society would not have gained anything from delaying in filing the appeal before this Tribunal, condone the delay of 264 days in light of decision in the *Collector Land Acquisition Vs. MST Katiji (1987) 167 ITR 471 SC* and admit the appeal for adjudication on merits



4. Facts in brief are that the assessee is a Cooperative Society stated to be engaged in the business of banking. It filed the return of income for the A.Y. 2017-18 declared Nil income in the return furnished and claimed deduction of Rs.49,88,630/-. After the case being selected for Limited Scrutiny under CASS for verification of deduction under Chapter-VIA followed by statutory notices u/s.143(2)/142(1) and the partial compliance by the assessee, ld. AO disallowed the exemption claimed u/s.80P of the Act on the ground that the assessee society has given membership to other people for which it does not qualify for deduction. While doing so, the ld. AO relied on the decision of Hon'ble Supreme Court in the case of *Citizen Cooperative Society Ltd. (2017) 84 taxmann.com 114 (SC)*.

5. Aggrieved assessee filed appeal before the ld.CIT(A)/NFAC who vide impugned order dismissed the appeal *in limine* for non-prosecution.

6. Now the assessee is in appeal before the Tribunal.

7. I have heard the rival contentions and perused the record placed before me. The facts of the case before ld.CIT(A)/NFAC are that the AO considered the said amount as not genuine and through which unaccounted money has been converted into



accounted money. Assessment order was passed u/s.143(3) disallowing the claim of assessee u/s.80P of the Act.

8. On perusal of the impugned order, I notice that the ld.CIT(A)/NFAC issued notices to the assessee to which there was no compliance. However, the ld.CIT(A)/NFAC has dismissed the assessee's appeal *in limine* without discussing the issue on merits as contemplated u/s.250(6) of the Act, which provides that for adjudicating the appeal, the ld. CIT(A)/NFAC should dispose of the same in writing and shall state the points for determination, the decision thereon and the reason for that decision. In view thereof, without dwelling into merits of the issue, the issue on merits is being remitted to the file of ld.CIT(A)/NFAC for *denovo* adjudication. The settled position of law mandates the NFAC to dispose of the appeal by adjudicating the issue raised in appeal on merits. In this regard, reference is being made to a decision of the Hon'ble Bombay High Court in the case of *Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF) Bombay/[2017] 297 CTR 614 (Bombay)* wherein it was held that NFAC is obliged to dispose of the appeal on merits. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld.CIT(A)/NFAC shall be free to proceed in accordance with law.



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Sahakari Pathasanstha Maryadit

Finding of the CIT(A)/NFAC is set aside and Grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 24th day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th 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, "SMC" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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