

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No.288/AHD/2025
(Assessment Year: 2022-23)**

Gujarat Vepari Mahamandal Sahkari Audyogik Vasahat Limited Odhav Road, Odhav, Ahmedabad-382410	Vs.	Income Tax Officer, Ward (3)(3)(5), Aayakar Bhavan, Vejalpur Ahmedabad-380015
[PAN No.AAAAG0348N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri M. S. Chhajed, A.R.
Respondent by:	Shri S. K. Agal, Sr. DR

Date of Hearing	22.04.2025
Date of Pronouncement	23.04.2025

ORDER

This appeal is filed by the assessee is against the order passed by the CIT(A)- ADDL/JCIT(A)-4, Bengaluru on 27.12.2024 for A.Y. 2022-23.

2. The grounds of appeal are as under:-

“1. The order passed by the Ld. CIT(A) is against the law, equity and principle of natural justice.

2. The Ld. CIT(A) has erred in law and on facts in dismissing appeal on clerical error wherein assessment order mentioned in Form 35 143(1) instead of 143(30, though in copy of assessment order submitted with Form No. 35.

3. Assessment order passed by the Ld. A.O. is void & illegal as he has passed order for the issue which are not selected under CASS makes assessment void & illegal.

4. The Ld. CIT(A) has erred in law and on facts in not dealing ground of appellant in regards to addition made by Ld. A.O. of entire sale consideration of long term asset as short term capital gain of Rs. 16,28,950/-.

5. The Ld. CIT(A) has erred in law and on facts in not dealing of ground of appellant in regards to a deduction allowable U/S 80-P of the Act of Rs. 13,49,634/-.

6. *The appellant craves liberty to add, amend, alter or modify all or any grounds of appeal before final appeal.”*

3. The assessee is a Co-operative Society. The assessee filed its return of income for A.Y. 2022-23 on 15.09.2022 declaring total income at Nil under the Income Tax Act, 1961. The case of the assessee was selected for complete scrutiny under CASS for the reason “claim of deduction u/s 80P by entities that have received large amount of interest from a banking company” and required statutory notices u/s 143(2) was issued on 02.06.2023 and was duly served on the assessee. The assessee filed the reply and the detailed information. After going through the same, the Assessing Officer made addition of Rs. 16,28,950/- in respect of total sale consideration of immovable property and disallowed the claim of the assessee u/s 80P(2)(d) amounting to Rs. 13,49,634/-.

4. Being aggrieved by the assessment order the assessee filed the appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has dismissed the appeal only on the ground that the assessee in advertently mentioned the provision of Section 143(1) in the column 2(a) of Form No. 35 in respect of order which is challenged instated of Section 143(3) read with Section 144B of the Income Tax Act, 1961. The Ld. AR submitted that since the matter was not decided on merit by the CIT(A), the matter may be remanded to the file of the CIT(A) for proper adjudication of the merits after giving hearing to the assessee.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that it is clearly a clerical mistake while mentioning the Section 143(1) instead of Section 143(3) read with Section 144B of the Act and the same would have been rectified. But without giving opportunity of rectifying the said mistake, the CIT(A) dismissed the appeal of

the technical ground and has not adjudicated the ground of appeal contested by the assessee. Therefore, it will be appropriate to remand this matter to the file of the CIT(A) for proper adjudication of the issues contested by the assessee in Form No. 35 filed before the CIT(A) and the assessment order challenged be taken as Section 143(3) read with Section 144B of the Act only. The CIT(A) is further directed to decide the issue on merits as per Income Tax Act, 1961. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In result the appeal of the assessee is partly allowed for statistical purpose.

This Order pronounced in Open Court on 23/04/2025

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad: Dated 23/04/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद