

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI

BEFORE MS. KAVITHA RAJAGOPAL, JM
AND
SHRI. RENU JAUHRI, AM

ITA No. 1683/Mum/2025
(Assessment Year: 2018-19)

Agashi Cooperative Credit Society Ltd. Ground Floor, Chalpeth, Late Sakharam Kawli Road, Agashi, Maharashtra – 401301.	Vs.	AO, Ward 4(1), Thane Income Tax Thane, Wagle Industrial Estate, 6 th Floor, B Wing, Maharashtra - 400604.
PAN/GIR No. AABAA3028L		
(Appellant)	:	(Respondent)

Assessee by	:	Shri. Dnyanesh Patade
Respondent by	:	Shri. Ram Krishn Kedia (SR. DR.)

Date of Hearing	:	22.04.2025
Date of Pronouncement	:	30.04.2025

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) Delhi ('ld. CIT(A)' for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2018-19.

2. The assessee has raised the following grounds of appeal:

1. On the based on circumstances and facts, the honourable CIT(A) has dismissed the appeal without the issue of defect notice, thereby not allowing the assessee to correct the details in Form 35. Assessee pleads that the appeal error made in Form 35 may be allowed to be corrected and appeal be restored to CIT(A).

2. On the based on circumstances and facts, assessee pleads that since the original assessment order has been passed u/s 144, the case may be remanded back to AO. for submission and verification of documents.



3. Brief facts of the case are that the assessee is a co-operative Society registered under Maharashtra Societies Act, 1950 and engaged in the activity of extending credit facility to its members by giving loan to members, accepting various types of deposits from members, giving information to members about co-operative society Act and enhancing co-operative movement among members, etc. The assessee had filed its return of income dated 28.09.2018, declaring total income at Rs. 99,860/-, after claiming deduction u/s. 80P of Act to the tune of Rs 55,80,035/-. The assessee's case was selected for limited scrutiny for the purpose of (1) investments/advance/loans (2) deduction from total income under Chapter VI-A. Notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The assessee has failed to comply with the notices issued by the Id. AO, inspite of several opportunities and hence, the Id. AO passed the assessment order dated 22.04.2021 u/s. 144 r.w.s. 144B of the Act being the best judgment assessment thereby disallowing the deduction claimed by the assessee of Rs. 55,80,035/- u/s. 80P(2)(d) of the Act and treated the same under the head 'Income from Other Sources'. The Id. AO also initiated penalty proceedings u/s 270A of the Act and a notice u/s 270A was issued on 22.04.2021 for under-reporting of income in consequence of mis-reporting of income
4. Aggrieved the assessee was in appeal before the first appellate authority, who vide an order dated 11.02.2025, upheld the order of the Id. AO and dismissed the appeal filed by the assessee on the ground that the assessee has wrongly filed the appeal against the penalty notice u/s. 270A dated 02.11.2021 instead of assessment order u/s. 144 r.w.s. 144B of the Act dated 22.04.2021 and had also not decided on the issue of penalty.



5. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A) on the above-mentioned grounds.
6. The learned Authorised Representative (Id. AR for short) for the assessee contended that the Id. CIT(A) has dismissed the appeal without issuing a defect notice to the assessee. The Id. AR further contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present its case before the Id. AO.
7. The learned Departmental Representative (Id. DR for short) for the revenue on the other hand vehemently opposed to setting aside the issue to the lower authorities for the reason that the assessee was given sufficient opportunity before the lower authorities but has not availed of the same. The Id. DR relied on the order of the lower authorities.
8. In the above facts of the case, it is observed that the assessee has not made compliance before the Id. AO as well as filed wrong grounds before the Id. CIT(A) for which the assessee contends that it was not given an opportunity to rectify the error in form 35. We are therefore of the considered opinion that the assessee may be given one more opportunity to present its case before the Id. AO by furnishing the documentary evidence proposed to be filed by the assessee in order to substantiate its claim. We therefore remand all these issues back to the file of the Id. AO by adhering to the principles of natural justice and in the interest of justice dispensation. The Id. AO is directed to consider the submission of the assessee and to pass a *de novo* assessment order on the merits of the case and in accordance with law and the assessee is also directed to strictly adhere to the proceedings before the Id. AO.



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9. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 30.04.2025

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 30.04.2025
Karishma J. Pawar (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai