



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA Nos. 030/PAN/2025

Assessment Year : 2018-19

Shri Basaveshwar Prathamik
Krishi Pattin Sahakari Sangha
At Post: Sundholi, Ta.: Sundholi
Dist. Belagavi.-591310
PAN : AAHAS0468A

..... Appellant

V/s

ITO, Central Processing Centre,
Bengaluru.

..... Respondent

Appearances

Assessee by : Mr Sateesh Nadagauda ['Ld. AR']

Revenue by : Ms Rijjula Uniyal ['Ld. DR']

Date of conclusive Hearing : 07/05/2025

Date of Pronouncement : 08/05/2025

ORDER

PER G. D. PADMAHSHALI;

By the captioned appeal the assessee impugns DIN & Order 1071405529(1) dt. 20/12/2024 passed by the Addl./Jt. Commissioner of Income Tax Appeals-2, Lucknow ['Ld. CIT(A)' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn arisen out of order of intimation processed dt. 22/10/2019 passed u/s 143(1) of the Act by the Central Processing Centre, Bengaluru ['Ld. CPC' hereinafter] anent to assessment year 2018-19 ['AY' hereinafter].



2. Tersely stated facts of the case are that;

2.1 The assessee is a co-operative society and for the year under consideration filed its return of income u/s 139(4) of the Act on 30/03/2019 declaring total income at NIL after claiming deduction u/s 80P of chapter VI-A of the Act for sum of ₹4,05,463/-.

2.2 On 22/10/2019 the aforestated ITR of the assessee was summarily processed u/s 143(1) of the Act whereby deduction claimed u/s 80P of Chapter VI-A was denied to the assessee for defaulting in filing the return within the time limit prescribed u/s 139(1) of the Act.

2.3 Aggrieved by denial of deduction and the summary assessment, the assessee contested the dispute in first appeal before the Ld. CIT(A).

2.4 Dissatisfied by the actions of tax authorities below the assessee instituted the present appeal with the sole & substantive ground of jurisdiction of Ld. CPC in disallowing the deduction.



3. We have heard the rival party's submission and subject to rule 18 of ITAT Rules, 1963 perused the material placed on records and considered the facts in the light of settled position of law and judicial precedents relied upon which are forewarned to the parties present.

4. We note that, the appellant assessee is a society and was entitled to claim deduction in relation to its business income u/s 80P of Chapter VI-A of the Act. In terms of section 139(1) of the Act the due date of filing return of income as applicable for the appellant for the year under consideration was 31/09/2018. The appellant however filed its return of income on 30/03/2016 wherein the claim for deduction u/s 80P of the Act was made. Admittedly the said return of income of the appellant was filed belatedly u/s 139(4) of the Act. The respondent revenue invoked the provisions of section 80AC(ii) of the Act, and denied the 80P deduction for assessee's default in filing the return within the prescribed time limit in terms of section 139(1) of the Act.



5. As we note, the rival parties has no dispute over the application of provisions of section 80AC(ii) of the Act which for the purpose of allowance of claim u/c VI-A of the Act mandates the filing of return with a such claim therein within the time limit prescribed u/s 139(1) of the Act. That is to say, without disputing the application of section 80AC(ii) of the Act, the appellant by the present appeal only challenges the jurisdiction of Ld. CPC in denying the claim for deduction to it through 'primary adjustment' u/s 143(1) of the Act. In view of the appellant, at the relevant time of passing the order of intimation, the Ld. CPC was not vested with the power to deny or disallow the claim for 80P deduction to the assessee. The appellant therefore contended that, the impugned action of disallowance by the Ld. CPC was without authority or sanction of law, hence barred by jurisdiction. To drive home this contention the Ld. AR relied on co-ordinate bench's decision in '*Shri Bhagyalaxmi Co-operative Credit Society Ltd Vs DCIT, CPC*' [2023, TS-512-ITAT-2023(PAN)] and Priyadarshani



Mahila Co-op. Society Ltd. Vs DCIT, CPC' [ITA No 32/PAN/2025 dt. 30/04/2025], 'Ambaradi Seva Sahkari Mandali Ltd. Vs DCIT, CPC' [ITA No. 186/RJT/2022 dt. 10/02/2023]. *Per contra*, the Revenue tried to cut the dispute to the corner by averring that; where the return of income is filed beyond the time limit prescribed u/s 139(1) of the Act, the clause (ii) of section 80AC of the Act come into play, which explicitly disqualifies deduction claimed u/c VI-A of the Act for defaulting with the provisions of section 139(1) of the Act. Now when a claim for 'C-Deduction in respect of certain income' u/c VI-A of the Act is statutorily barred by operation by specific provision of law, then a question as to who and how such denial or disallowance is to be made rests with the mechanism put in place in administration of the Act. The said denial or disallowance could have possible be made through one of the two lawful mechanisms provided & available with the Revenue viz; (i) through summary assessment u/s 143(1) of the Act and (ii) through regular assessment u/s 143(3) of the Act. Since



not all the returns pass through second mechanism but invariably passes through first mechanism, therefore the Ld. CPC rightly denied the claim while processing.

6. The subject matter of dispute regarding the power of LD. CPC to make disallowance was came before the coordinate bench in [ITA No 063/PAN/2025] ‘*Allamaprabhu VUSS Niyamit Kalloli Allamaprabhu VUSS Niyamit Kalloli Vs ITO*’, wherein while allowing the appeal filed by the assessee held that, the Ld. CPC at the relevant time of processing return lacked the jurisdiction to carry out disallowance of 80P deduction. It is therefore apt to reproduce the relevant adjudication herein as;

7. *The only question for our adjudication is that; ‘as to whether the Ld. CPC had a jurisdiction to disallow or deny the claim for deduction made u/s 80P of Chapter VI-A of the Act at the relevant time of passing the order of intimation u/s 143(1) of the Act’? To settle this question, it is apt deal with relevant clause (v) of section 143(1)(a) of the Act which deal with the power of Ld. CPC at the relevant period passing intimation order was as;*

(v) disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or



8. *It is also necessary to note that, subsequently, this sub-clause (v) of clause (a) of s/s (1) of section 143 of the Act was substituted by the Finance Act, 2021 with the following which came into effect from 01/04/2021;*

(v) disallowance of deduction claimed under [section 10AA or under any of the provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes", if] the return is furnished beyond the due date specified under sub-section (1) of section 139; or

9. *The bare reading of substituted provisions clearly suggest that, the jurisdiction of Ld. CPC s/c (v) of clause (a) of s/s (1) of section 143 of the Act to deny or disallow the deduction claimed under the head 'C-Deduction in respect of certain income' u/c VI-A of the Act was not available as on the date when the order of intimation was passed, As the matter of fact that s/c (v) (supra) was amended by substitution by the Finance Act, 2021 wherein instead of reference to Sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or Section 80-IE, the substituted provision of s/c (v) extended its umbrella to Section 10AA or under any of the provisions of Chapter VI-A under the head 'C-Deductions in respect of certain incomes'. No doubt Section 80AC(ii) as amended by the Finance Act, 2018 mandated that even for claiming deduction claimed u/c VI-A of the Act, the return of income was to be filed before the expiry of due date prescribed u/s 139(1) of the Act, however, the enabling jurisdiction clause (v) of s/c (a) of section 143(1) of the Act came into play only w.e.f. 01/04/2021.*



10. As on the date of processing the return summarily u/s 143(1)(a)(v) of the Act there was no enabling power vested with the Ld. CPC to apply provisions of section 80AC(ii) of the Act. Therefore, the impugned action of disallowance in our considered view was beyond Ld. CPC's jurisdiction or authority.

11. We find that, a similar issue came for consideration before Co-ordinate bench in 'Bhagyalaxmi Co-Op. Cr. Soc. Ltd. Vs DCIT', 'M/s Sangam Souharda Cr. Sah. Ltd. Vs DCIT' [ITA No 01 & 30/PAN/2023 dt. 01/09/2023] wherein vide para 10-13 was held as;

'10. Both the present two appeals are relating to AY 2018-19 and both these assessee societies undisputedly have filed their returns on 15/03/2019 and 31/11/2018 respectively, wherein claim for 80P deductions u/c VI-A of the Act were duly made. The only dispute in these appeals is eligibility of claims made in the belated return, therefore apparently out of two riders laid in s/s (5) of section 80A and clause (ii) of section 80AC of the Act, the later rider is seems to have rightly attracted. For the reasons the Ld. CPC rejected the claim while processing the ITR summarily u/s 143(1) of the Act, and finding no fault therewith the Ld. NFAC has dismissed the appeal on this score.

11. In present appeals we note that, the appellant societies have furnished their ITR albeit beyond the prescribed due date (filed belated) and however those were filed with an eligible claim for 80P deduction therein. Therefore jurisdiction of Ld. CPC s/c (v) of clause (a) of sub section (1) of section 143 of the Act is not available as the matter of fact that s/c (v) (supra) was amended by the Finance Act, 2021 wherein instead of reference to Sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or Section 80-IE, the provision instead makes a mention of Section 10AA or under any of the provisions of Chapter VI-A under the head 'C-Deductions in respect of certain incomes'. Accordingly, the enabling provisions to address the amendment in Section 80-AC(ii) by Finance Act, 2018 came into play only in 2020-21 assessment year. Thus, no doubt Section 80AC as amended by the Finance Act, 2018 mandated that even for



claiming deduction claimed u/s 80P, the return of income was to be filed before the due date as specified u/s 139(1) of the Act. However, for the Ld. CPC to insist upon the compliance by way of making a disallowance owing to filing the return belated, the power vested in the said Authority only vide Finance Act, 2021 and came into effect accordingly. Therefore, in the absence of the enabling jurisdiction provisions, the Ld. CPC lacked the jurisdiction to make any disallowance of claim made u/c VI-A of the act while processing the return summarily u/s 143(1)(a)(v) of the Act.

12. We found that similar views has been taken by various co-ordinate benches in ‘Lanjani Co-Operative Agri Service Society Ltd. Vs DCIT’ reported in 146 taxmann.com 468, ‘Lunidhar Seva Sahkari Mandali Ltd. Vs. Assessing Officer (CPC)’ 200 ITD 0014, And ‘Karohta Co-Operative Agriculture Service Society Ltd. Vs ITO (ITA No. 447/CHD/2022)’

12. Undisputedly in the present case, the appellant society furnished its ITR beyond the prescribed due date (filed belated) but making therein claim for 80P(2) deduction. The claim for deduction was no doubt subjected to disallowance by application of provisions of clause (ii) of section 80AC of the Act, however there was complete absence of authority vested with the Ld. CPC to carry out the disallowance u/s 143(1)(a)(v) of the Act. Therefore, the impugned action of denial of 80P deduction to the appellant by the Ld. CPC was barred by jurisdiction, hence unlawful. And in the absence of any explicit power contained in and vested with any authority under the Act to ratify the impugned action of the Ld. CPC, we are duty bound to reverse prejudice caused to the appellant by vacating the impugned disallowance.



13. *Without multiplying the judicial precedents on the subject matter, maintaining the parity with the decision of learned co-ordinate benches (supra), we concur with the claim of the appellant society that the Ld. CPC clearly traversed and in fact exceeded its jurisdiction in disallowing the appellant's claim for deduction u/s 80P of the Act. Therefore, same is liable to be vacated. In consequence, we set-aside impugned order of Ld. CIT(A) and direct the Ld. CPC to reverse the disallowance and accept the claim of deduction u/c VI-A of the Act as claimed in the return of income filed by the appellant assessee.'*

7. In absence of anything contrary brought to our notice by the respondent, placing reliance on the decision of '*CIT Vs Travancore Titanium Products Ltd. [2003, 131 Taxman 705 (Ker.)]*' we allow the ground & appeal in very former terms following the decision of the co-ordinate benches (supra).

8. The appeal in result stands ALLOWED.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

-S/d-

PAVAN KUMAR GADALE
JUDICIAL MEMBER

Panaji/Dt: 08th May 2025

Copy of the Order forwarded to:

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|-------------------|-----------------------------------|-------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A) Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

-S/d-

G. D. PADMAHALI
ACCOUNTANT MEMBER

By Order,
Sr. Private Secretary / AR ITAT, Panaji.