

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA
BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT
ITA No.464/KOL/2025

(निर्धारण वर्ष /Assessment Year : 2021-2022)

Hijalberia Chatradari S.K.U.S. Limited, Hijalberia, Tamluk, East Midnapore-721649	Vs	ITO, Ward-27(3), Kolkata
PAN No. :AABAH 5480 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri S.K.Tulsian, Advocate with Ms. Puja Somani, CA
राजस्व की ओर से /Revenue by	:	Shri Somnath Das Biswas, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	20/05/2025
घोषणा की तारीख/ Date of Pronouncement	:	24/06/2025

आदेश / ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 24.01.2025 passed for Assessment Year 2021-2022.

2. Ld. AR before us submitted that the assessee is a primary agricultural credit co-operative society established under the West Bengal Co-operative Societies. Act, operating in rural areas and managed by the rules laid down under Registrar of Co-operative Societies. It filed its return of income for AY 2021-22 on 15-03-2022. The extended due date for filing the return was 15-03-2022. As such, there was no delay in filing the return of income. The assessee has claimed deduction of Rs. 17,22,884/- u/s 80P of the Act. In the intimation dated 31-10-2022 passed by the learned CPC, refer Annexure 80P, page 13 of the paper book, the learned CPC has duly acknowledged that deduction of Rs. 17,22,884/- was claimed by the assessee. However, the learned CPC without assigning any reasons

thereof has disallowed the deduction claimed u/s 80P of the Act. No notice of adjustment as required u/s 143(1)(a) of the Act was issued to the assessee before making the impugned adjustment which is not as per law. In the portal its showing that a notice was issued for proposed adjustment u/s 143(1)(a) of the Act, but no notice was uploaded in the portal which is a mandatory requirement before making any adjustment/disallowance. It was the submission that the assessee preferred appeal before the learned CIT(A) belatedly by 735 days stating the reasons as has been incorporated by the Id. CIT(A) in its order at para 5.1 which read as under :-

"Intimation was issued to the assessee dated 31-10-2022. The person looking after the income tax matters failed to login in the income tax portal. Hence, the said intimation was overlooked by him. The assessee had no knowledge about such intimation order. Only on 19-10-2024, an email from CPC was received by the assessee wherein demand was showing for the subject assessment year i.e. AY 2021-22. Immediately, the assessee consulted an income tax practitioner in Kolkata. He advised the assessee to file an appeal against the intimation order."

3. Accordingly, the assessee filed appeal before the Id. CIT(A) having a delay of 735 days, however, the said delay was not condoned by the learned CIT(A) and dismissed the appeal of the assessee on the ground that assessee has deliberately ignored the intimation being a notice of demand to avoid payment of demand. Now, the assessee is in further appeal before the Tribunal on the following grounds of appeal :-

1. *That on the facts and circumstances of the case, the learned CIT(A) erred in sustaining the disallowance made u/s 80P of the Act in the intimation order dated 31-10-2022.*
2. *That on the facts and circumstances of the case, the learned CIT(A) failed to take cognizance of the fact that the return of income for the subject assessment year being AY 2021 was filed on 15-03-2022 ie. within the extended due date of filing and thus there cannot be any disallowance u/s 80P of the Act in the intimation order.*

3. *That on the facts and circumstances of the case, the learned CIT(A) erred in dismissing the appeal of the assessee on the ground that the delay in filing appeal is not condoned.*
4. *That, the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/or rescind any or all of the above grounds.*

4. It was pleaded by the Id. AR that Intimation was issued to the assessee dated 31-10-2022. The person looking after the income tax matters failed to login in the income tax portal. Hence, the said intimation was overlooked by him. The assessee had no knowledge about such intimation order. It was further submitted that only on 19-10-2024, an email from CPC was received by the assessee wherein demand was showing for the subject assessment year i.e. AY 2021-22. Immediately, the assessee consulted an income tax practitioner in Kolkata. He advised the assessee to immediately file an appeal against the intimation order. Hence, there was a delay of 735 days in filing the appeal before the learned CIT(A). It was pleaded that the assessee is a very small cooperative society operating in rural areas in Medinipur, a small town in West Bengal. The same is also evident from the fact that the assessee reported turnover of only Rs.17,22,884/- during the year. There was no qualified person in the assessee society who looks after the income tax matters in the relevant year. It was, thus, the submission of Id. Counsel that inadvertently the intimation order was overlooked by the assessee society and there is no question of ignoring the demand notice since the Department has ample powers to recover the demand either by adjusting the same with refund of other assessment years or attaching the Bank A/c of the assessee.

5. Apart from the above, it was also the submission of the Id. Counsel that in the intimation dated 31-10-2022 passed by the learned CPC, has duly acknowledged that deduction of Rs.17,22,884/- was claimed by the assessee. However, the learned CPC without assigning any reasons thereof has disallowed the deduction claimed u/s 80P of the Act. It was further submitted that no notice of adjustment as required u/s 143(1)(a) of the Act was issued to the assessee before making the impugned adjustment which is not as per law. In the portal its showing that a notice was issued for proposed adjustment u/s 143(1)(a) of the Act, but no notice was uploaded in the portal which is a mandatory requirement before making any adjustment/disallowance. In this regard, Id. Counsel filed screenshot of the portal at page 5 of the paper book to submit that there is no attachment of any notice. The assessee was never served with any notice u/s 143(1)(a) of the Act for the subject assessment year which is mandatory by virtue of section 143(1) of the Act. The same was also submitted before the learned CIT(A). Thus, it was pleaded that the entire order passed u/s.143(1) of the Act is in itself not as per law and is liable to be quashed.

6. On the other hand, Id. Sr. DR vehemently supported the orders of the both the authorities below and submitted that a proposed adjustments letter u/s.143(1)(a) of IT Act, 1961 was issued to assessee on 09/09/2022 and the same is served on 09/09/2022 on the email id: hcskus40@gmail.com provided by the assessee and the order u/s.143(1) of the IT Act, 1961 was served on 31/10/2022 on the email id: hcskus40@gmail.com provided by the assessee. It was the submission that the assessee has deliberately ignored the same being a notice of

demand to avoid payment of demand. It was pleaded by the Id. Sr. DR that there was no negligence but deliberate avoidance of demand issued under intimation u/s.143(1) of the Act and requested to uphold the orders of the authorities below.

7. I have heard the submissions of the parties and perused the material available on record. The assessee has filed its return of income on 15.03.2022 claiming deduction u/s.80P of the Act. The Assessing Officer disallowed the deduction claimed by the assessee under intimation u/s.143(1) of the Act, which was agitated by the assessee in the appellate proceedings before the Id. CIT(A), however, the Id. CIT(A) dismissed the appeal of the assessee on the account of delay in filing appeal. Ld. Counsel during the course of assessment proceedings drew our attention to page 5 of the paper book containing the screenshot of the portal which shows that notice/intimation u/s.143(1)(a) of the Act proposing the adjustments has been issued, however, there is no attachment enclosed to it. But the Id. CIT(A) has not passed the order on merits and simply dismissed the appeal of the assessee on the question of delay. Both the authorities have not mentioned the reason for disallowance u/s.80P of the Act as claimed by the assessee. The assessee has also explained about the delay in filing the appeal before the Id. CIT(A) due to lack of knowledge about passing of the assessment order. Therefore, looking to the facts and circumstances of the case and in the interest of justice, I deem it fit to condone the delay of 735 days in filing the appeal before the Id. CIT(A) and I do so. So far as adjustment made u/s.143(1) of the Act is concerned, a perusal of provisions of section 143(1) of the Act shows that it is compulsory for the revenue to issue show cause notice before making any adjustment in the intimation u/s.143(1) of the Act. In this regard, the department could bring anything on record that the attachment containing

intimation issued to the assessee. Hence, it is presumed that no intimation u/s.143(1) is issued to the assessee before making adjustment. This being so, as no show cause notice under the provisions of section 143(1) has been issued before making adjustment, the intimation issued u/s.143(1) stands quashed and appeal of the assessee is allowed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 24/06/2025.

Sd/-
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT

कोलकाता Kolkata; दिनांक Dated 24/06/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata