



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. 058/PAN/2025

Assessment Year : 2014-15

The Sankhali Urban Co-op. Credit Society Ltd.

Shreya Shreya, Gokulwadi,

Sankhali, Goa-403505

PAN : AADAT9594J

..... *Appellant*

V/s

Income Tax Officer,

Ward-2(4), Panaji, Goa.

..... *Respondent*

Appearances

Assessee by : Mr Amol Arlekar ['Ld. AR']

Revenue by : Mr Narendra Reddy ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 08/04/2025

घोषणा की तारीख / Date of Pronouncement : 09/04/2025

ORDER

PER G. D. PADMAHSHALI;

The captioned appeal of the assessee impugns DIN & Order 1072154404(1) dt. 14/01/2025 passed by the National Faceless Appeal Centre, Delhi ['Ld. NFAC' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn arisen out of order of assessment dt. 29/12/2018 passed u/s 143(3) r.w.s. 254 of the Act by the Income Tax Officer, Ward-2(4) Panaji, Goa ['Ld. AO' hereinafter] relating to assessment year 2014-15 ['AY' hereinafter].



2. Briefly stated facts of the case are that; the assessee is a credit co-operative society filed its return of income on 11/11/2014 declaring ₹NIL income. The said return of income without variation in first place processed summarily u/s 143(1) of the Act. Subsequently the case of the assessee selected for scrutiny and consequential assessment was completed u/s 143(3) of the Act vide order dt. 21/10/2016 whereby two additions were made viz; (i) claim for deduction of ₹54,91,931/- u/s 80P of the Act was disallowed and (ii) ₹51,56,366/- was disallowed u/s 40(a)(ia) of the Act. Aggrieved by the additions & assessment assessee instituted an appeal before Ld. CIT(A) which came to be allowed whereby both the disallowance were deleted. The Revenue aggrieved by the order of Ld. CIT(A) taken the matter up to Tribunal which set-aside the first appellate order and remitted the file to the Ld. AO for necessary verification & enquiries in respect of disallowance made u/s 80P and 40(a)(ia) of the Act. In second round of proceedings, the Ld. AO reframed the assessment whereby total taxable income of the assessee after allowing deduction u/s 80P of the Act of ₹46,94,151/- was finally determined at ₹59,54,146/- which solitarily represented by disallowance of ₹51,56,366/- u/s 40(a)(ia) of the Act and income brought to tax u/h income from other sources of ₹3,39,677/-.



3. Aggrieved assessee re-attempted to resolve the dispute in appeal before the Ld. NFAC, who in the event of non-prosecution dismissed the appeal ex-parte *in limine*. Thus aggrieved thereby the assessee came in present appeals on ten grounds which are inconsonance with rule 8 of ITAT-Rules, hence reproduction thereof is dispensed with.

4. Without touching grounds and merits of the case; we have heard the rival parties on limited issue and subject to rule 18 of ITAT-Rules 1963 perused material placed on record and we note that, in the event of non-prosecution, the Ld. NFAC came to dismiss the appeal ex-parte *in limine* without adjudicating the issues/ground raised in Form No. 35. While doing so, the Ld. NFAC placed its reliance on '*CIT Vs B N Bhattacharya*' [1977, 118 ITR 461 (SC)],

5. We note that, while dealing with the appeal for passing an order u/s 250(6) of the Act, the Ld. NFAC in view of prescription of Section 251(1)(a) and (b) and Explanation to Section 251(2) of the Act was required to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised in form no 35. Thus, the law does not empower the Ld. NFAC to dismiss the appeal for non-prosecution *in limine*.



6. We note that, the issue of ex-parte dismissal of appeal by the first appellate authority came for consideration before the Hon'ble Jurisdictional Bombay High Court in the case of '*CIT Vs Premkumar Arjundas Luthra HUF*' [2016, 240 Taxman 133 (Bom)] wherein their Hon'ble lordship vide para 8 have categorically held that, the first appellate authority [CIT(A)] does not have the power to dismiss an appeal for non-prosecution and even in the case of *ex-parte* adjudication the CIT(A) must decide the appeal on merits considering all relevant facts and evidence. Respectfully following the former judicial precedent (supra), we set-aside the impugned ex-parte order passed by the Ld. NFAC without dealing with the issues/merits of the case as assailed and restore file to Ld. NFAC at the stage of its institution with a direction to deal therewith *de-novo* on merits and pass a speaking order in terms of section 250(6) of the Act.

7. The appeal in result stands allowed for statistical purposes.

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: 09th April, 2025.

Copy of the Order forwarded to :

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

-S/d-

**G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

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