

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCH 'B', JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
Before : Shri Vijay Pal Rao, JM & Shri Vikram Singh Yadav, AM

आयकर अपील सं./ITA No. 597/JP/2019
निर्धारण वर्ष/Assessment Year : 2016-17

Molkiya Gram Sewa Sahakarti Samiti Ltd., Molkiya, Tehsil: Kekri Distt.Ajmer	बनाम Vs.	The ITO Ward- 2(3) Ajmer
स्थायी लेखा सं./जीआईआर सं./	PAN/GIR No.: AACAM 1922 C	
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri P.C. Parwal, CA &
Shri K.C. Tater, CA
राजस्व की ओर से/ Revenue by : Shri K.C. Gupta , JCIT-DR

सुनवाई की तारीख/ Date of Hearing : 18/03/2020
घोषणा की तारीख/ Date of Pronouncement : 19 /03/2020

आदेश / ORDER

PER VIJAY PAL RAO, JM

This appeal by the assessee is directed against the order of Id. CIT(A), Ajmer dated 22-02-2019 for the Assessment Year 2016-17. The assessee has raised the following ground.

“1. The Id. CIT(A) has erred in making disallowance of Rs. 27,45,889/- u/s 80P of the I.T. Act, 1961 and in making additions thereof to the total income of the assessee.”

2.1 The only issue in this appeal is regarding disallowance of deduction claimed u/s 80P of the I.T. Act, 1961.

2.2 The assessee is a cooperative society registered under Cooperative Society Act, 1953. The assessee is carrying on the business of banking or providing credit facilities to its members, purchase of agriculture implements, seeds, fertilizers, livestock and other articles used for agriculture activities. The assessee is also selling the control price items under Public Distribution Scheme (for short "PDS") of the Rajasthan Govt. like Sugar, Kerosene, Wheat etc. The assessee filed its return of income on 15-08-2016 declaring Nil income after claiming deduction of Rs. 27,45,889/- u/s 80P of the I.T. Act, 1961. The AO has denied the claim of deduction u/s 80P of the Act on the ground that the assessee has not furnished the requisite details regarding claim of deduction u/s 80P of the Act. The assessee challenged the action of the AO before the Id. CIT(A) and contended that the assessee is eligible for deduction u/s 80P of the Act. The Id. CIT(A) has sustained the disallowance of deduction u/s 80P of the Act made by the AO on the ground that the assessee has not furnished any details with regard to its deduction before him.

2.3 The Id.AR of the assessee has submitted that the AO as well as the Id. CIT(A) have denied the claim of deduction u/s 80P of the Act for want of necessary details and evidence in support of the claim whereas the assessee had produced its profit & loss account and balance sheet before the AO which contains the details and income of the assessee from various activities. Therefore, the denial of the claim is not justified. The Id.AR of the assessee referred to the profit & loss account of the assessee for the year under consideration and submitted that the assessee has even given the details of trading account giving details of separate items of receipts and expenditure. Thus the Id.AR of the assessee has submitted that when all the details were available with the AO then the claim of deduction u/s 80P of the Act ought to have been allowed.

2.4 On the other hand, the Id. DR has submitted that despite specific query by the AO, whereby the assessee was asked to produce the details in support of the claim of deduction u/s 80P of the Act, the assessee has failed to furnish the requisite details. Even before the Id. CIT(A), the assessee has though challenged the order of the AO but without furnishing the supporting documentary evidence or necessary details. The Id. DR has relied on the orders of the lower authorities.

2.5 We have considered the rival submissions as well as the relevant materials available on record. There is no dispute that the assessee has claimed deduction u/s 80P of the Act in respect of its entire income. During the course of assessment proceeding, the AO has disallowed the claim of the assessee in para 4 (a) as under:-

“4. On scrutiny of the case, the following issue has been noticed:-

(a) Disallowance on account of large deduction claimed under Chapter VIA

During the course of assessment proceeding, on perusal of return of income it is noticed that assessee AOP has claimed large deduction u/s 80P of Chapter VIA amounting to Rs. 27,45,889/- but the assessee has not furnished any details with regard to this deduction. In view of above facts, it is clear that the assessee has failed to furnish the evidence of deduction claimed u/s 80P. It is, therefore, disallowance on account of deduction claimed u/s 80P of Rs. 27,45,889/- is hereby made in the total income of the assessee.”

Thus it is clear that despite specific query raised by the AO and asked the assessee to furnish the requisite details the assessee failed to produce the same in support of its claim. Before the Id. CIT(A), though the assessee has repeated its contentions that the assessee is eligible for deduction u/s 80P(2)(a) of the Act based on the profit & loss account, however, the

assessee has not given segment wise details of income earned by it from the core activity of the assessee cooperative society as well as from the non-core activity. The ld. CIT(A) has confirmed the disallowance made by the AO in para 4.3 as under:-

“4.3 I have gone through the assessment order, statement of facts, ground of appeal and written submissions carefully. It is seen that the appellant had claimed deduction of Rs. 27,45,889/- u/s 80P. The Assessing Officer disallowed the claim of the appellant as the assessee had not furnished any details with regard to this deduction. During the appellate proceedings also, the appellant has not furnished any evidence in support of the claim for deduction of Rs. 27,45,889/- made u/s 80P. Therefore, the disallowance made by the AO of deduction of Rs. 27,45,889/- claimed by the appellant u/s 80P is hereby confirmed. This ground of appeal is dismissed.”

We find that the profit & loss account as well as trading account of the assessee gives only the details of receipts/sales and expenditure incurred by the assessee during the year but it does not give details of segmentwise income for the purpose of verifying the claim of assessee's deduction u/s 80P of the Act. We find that some of the income during the year under consideration has been earned by the assessee from the activity of selling the commodities like Sugar, Kerosene, Wheat etc. under the Public Distribution Scheme of Rajasthan Govt. Therefore, these activities are not the core activity of the assessee society and the income from these

activities would not be eligible for deduction u/s 80P of the Act. So far as the core activity of the assessee society which includes credit facilities to its Members and supply of fertilizers and other materials used in the agricultural activity to the members, the same is eligible for deduction u/s 80P of the Act. Further the interest earned by the assessee from the deposits with another cooperative banks is also eligible for deduction u/s 80P of the Act but the interest earned from the saving bank account kept with schedule bank or non-cooperative bank is again a matter of dispute, so far as the eligibility of deduction u/s 80P of the Act is concerned. In the absence of these segmentwise details and income from different activities bifurcating into the category of core activity and ancillary activity to the core activity as well as non-core activity, it is not possible to consider the claim of deduction u/s 80P of the Act. Accordingly, in the facts and circumstances of the case, we set aside this issue to the record of the AO to verify the segmentwise details of income from core activities of the assessee as well as non-core activity to be filed by the assessee and then allow the claim of the assessee u/s 80P of the Act in respect of income from the core activity of the assessee. Thus the appeal of the assessee is allowed for Statistical purposes.

3.0 In the result, the appeal of the assessee is allowed for Statistical purposes.

Order pronounced in the open court on 19/03/2020.

Sd/-

(विक्रम सिंह यादव)

(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

Sd/-

(विजय पाल राव)

(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 19/03/ 2020

***Mishra**

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

1.अपीलार्थी / The Appellant- Molkiya Gram Sewa Sahkari Samiti Ltd. Ajmer

2.प्रत्यर्थी / The Respondent- ITO, Ward- 2(3), Ajmer

3.आयकर आयुक्त(अपील) / CIT(A),

4.आयकर आयुक्त / CIT,

5.विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur

6.गार्ड फाईल / Guard File (ITA No 597/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar