THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM)

I.T.A. No. 1487/Mum/2022 (A.Y. 2014-15)
I.T.A. No. 1488/Mum/2022 (A.Y. 2013-14)

Badar Bagh Co-operative Credit Society Ltd. 25, Badar Bagh, Balram Street, Grant Road Mumbai-400 008. PAN : AAAAB8076A	Vs.	ITO-20(1)(3) Room No. 114 1st Floor Piramal Chambers Lalbaug, Parel Mumbai-400 012.
(Appellant)		(Respondent)

Assessee by	Shri Tanzil Padvekar
Department by	Shri Vivek Upadhyay
Date of Hearing	18.08.2022
Date of Pronouncement	22.08.2022

ORDER

Both the appeals filed by the assessee are directed against the orders passed by Ld CIT(A), National Faceless appeal Centre, Delhi and they relate to the assessment years 2013-14 and 2014-15. The assessee is aggrieved by the decision of Learned CIT(A) in confirming the disallowance of claim made u/s 80P of the Act in both the years.

2. I heard the parties and perused the record. The assessee is a co-operative credit society and it filed its return of income for both the years claiming deduction u/s 80P of the Act. The AO rejected the said claim in both the years on the ground that the provisions of sec. 80P(4), which debars banks from claiming deduction u/s 80P, are applicable to the assessee. Before LdCIT(A), the assessee did not appear. I notice that the LdCIT(A) has given several opportunities to the assessee. Hence Learned CIT(A) passed the orders confirming the disallowance made by the AO in both the years. Aggrieved, the assessee has filed these two appeals before the Tribunal.

3. The Ld A.R submitted that the provisions of sec.80P(4) are not applicable to the assessee and in this regard, he placed his reliance on the decision rendered by Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd vs. CIT (20210(123 taxmann.com 161)(SC). Accordingly, he contended that the Learned CIT(A) was not justified in confirming the disallowance made u/s 80P(4) of the Act.

4. The Ld D.R, on the contrary, submitted that the assessee has not appeared before Learned CIT(A) and hence the Ld CIT(A) has passed impugned orders on the basis of materials available on record.

5. I heard the parties and perused the record. I notice that the Learned CIT(A) has passed the impugned orders ex-parte, without hearing the assessee. Before me, the assessee claims that the issue is covered in its favour by the decision rendered by Hon'ble Supreme Court (referred supra). Since the Learned CIT(A) has passed the orders ex-parte, the assessee did not get opportunity to present its case before him. Accordingly, in the interest of natural justice, I am of the view that the assessee may be provided with one more opportunity to present its case before Learned CIT(A). Accordingly, I set aside the orders passed by Learned CIT(A) in both the years under consideration and restore all the issues in both the years to his file for adjudicating them afresh in accordance with law, after affording adequate opportunity of hearing to the assessee. I also direct the assessee to fully co-operate with Learned CIT(A) for expeditious disposal of the appeals.

6. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 22.08.2022.

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 22/08/2022

<u>Copy of the Order forwarded to</u> :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai

PS