

IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND SHRI B R BASKARAN, ACCOUNTANT MEMBER

ITA No. 1196/Bang/2019
Assessment year : 2014-15

M/s Lalitamba Pattina Souharda Sahakari Niyamitha, Vivekananda Road, Behind Prasad Nursing Home, Gadag – 582 101. <b>PAN: AAATL 5716G</b>	Vs.	The Principal Commissioner of Income Tax. Hubballi.
APPELLANT		RESPONDENT

Appellant by	:	Shri S.V. Ravishankar, Advocate
Respondent by	:	Mr. Muzaffar Hussain, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	17.02.2020
Date of Pronouncement	:	26.02.2020

**ORDER**

*Per N.V. Vasudevan, Vice President*

This appeal by the assessee is against the order dated 27.3.2019 of the Principal CIT, Hubballi [‘Pr.CIT’] passed u/s. 263 of the Income-tax Act, 1961 in relation to assessment year 2014-15.

2. The assessee is a co-operative credit society registered under the Karnataka Souharda Sahakari Act, 1997 and is engaged in the activity of accepting deposits and providing credit facilities to its members. For the AY 2014-15, the assessment was completed by the AO in which deduction

u/s. 80P was allowed. The order of assessment u/s. 143(3) was passed on 25.11.2016.

3. The Pr.CIT was of the view that the aforesaid order of AO was erroneous and prejudicial to the interests of revenue because the AO had allowed deduction to the assessee u/s. 80P of the Act. According to the Pr. CIT, the society registered under the Karnataka State Sahakari Souharda Act, 1997 cannot be regarded as a co-operative society entitled to benefit of deduction u/s. 80P(2) of the Act. Accordingly, a show cause notice dated 30.11.2012 was issued by the Pr. CIT u/s. 263 of the Act. After receiving reply from the assessee he set aside the order of assessment and directed the AO to pass a fresh assessment order after due opportunity to the assessee. Following are the relevant conclusions of the CITA:-

“8. In view of the above, the assessee cannot claim deduction u/s 80P, in the absence of registration under the Karnataka Co-operative Societies Act. The impugned order allowing deduction u/s 80P, is erroneous and prejudicial to the interests of the Revenue. Reliance is place on the decision of “C” Bench ITAT, in ITA 2831/Bang/2017 dated 17/08/2018 in the case of M/s Udaya Souharda Credit Co-operative Society Ltd Vs ITO W-5(2)(4) Bangalore.

9. In view of the foregoing, I have no hesitation to come to the conclusion that the assessment order passed by the Assessing officer u/s 143(3) on 25/11/2016 is erroneous in as much as it is prejudicial to the interest of Revenue and as such, under the powers vested in me, under section 263 of the Income Tax Act, 1961, the said assessment order is set aside with a direction to the Assessing officer to pass a fresh assessment order, after giving due opportunity to the assessee.”

4. Aggrieved by the aforesaid order dated 27.3.2019 of the Pr. CIT, the assessee is in appeal before the Tribunal.

5. We have heard the rival submissions. The primary reason for the CIT to pass the impugned order is the decision of the ITAT Bangalore Bench in the case of *Udaya Souharda Credit Co-operative Society Ltd. (supra)* in which it was held that registration under the Karnataka Co-operative Societies Act is necessary to claim deduction u/s. 80P of the Act. The Id. counsel for the assessee has, however, brought to our notice that that the Hon'ble High Court of Karnataka in WP No.48414/2018 in the case of *Swabhimani Souharda Credit Ltd. V. GOI & Ors.* in its order dated 16.1.2020 had to decide the following question of law:-

“Whether an entity registered under the Karnataka Souharda Sahakari Act, 1997 fits into the definition of co-operative society as indicated by section 2(19) of the Income-tax Act, 1961 for the purpose of section 80P thereof?”

6. The court answered the aforesaid question in the affirmative and in favour of the assessee. In view of the aforesaid decision, we are of the view that the order of Pr. CIT u/s. 263 requires to be set aside and remanded to the Pr. CIT for fresh consideration in the light of the decision of the Hon'ble High Court of Karnataka referred to above.

7. In the result, the appeal is treated as allowed for statistical purposes.

Pronounced in the open court on this 26<sup>th</sup> day of February, 2020.

Sd/-

( B R BASKARAN )  
ACCOUNTANT MEMBER

Sd/-

( N V VASUDEVAN )  
VICE PRESIDENT

Bangalore,  
Dated, the 26<sup>th</sup> February, 2020.

/Desai S Murthy/

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|-------------------------|---------------|---------------|-----------|
| 1. Appellant            | 2. Respondent | 3. CIT        | 4. CIT(A) |
| 5. DR, ITAT, Bangalore. |               | 6. Guard file |           |

By order

Assistant Registrar  
ITAT, Bangalore.