IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

I.T.A. No.397/Ahd/2020
(Assessment Year: 2015-16)

The Sankheda Jetpur Pavi Taluka Ginning Pressing Cotton Sale Co-op. Society Ltd., Dhokalia, Bodeli, Taluka Sankheda, Vadodara-391135	Vs.	Principal Commissioner of Income Tax-3, Vadodara
[PAN No.AAAAT1464C]		
(Appellant)	..	**(Respondent)**

Appellant by :	Shri Bhavin Marfatia, A.R.
Respondent by:	Shri A.P. Singh, CIT DR

Date of Hearing	30.09.2024
Date of Pronouncement	09.10.2024

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Principal Commissioner of Income Tax-3, (in short "Ld. PCIT"), Vadodara, vide order dated 16.03.2020 passed for A.Y. 2015-16.

2. The Assessee has taken the following grounds of appeal:-

*"**Invalid Revision u/s 263:***

1. The learned Principal Commissioner of Income Tax-3, Vadodara ['the PCIT] erred in fact and in law in revising assessment by invoking powers u/s. 263 of the Income Tax Act,1961("the Act") despite the fact that the conditions stipulated for invoking such extraordinary jurisdiction were not satisfied.

2. The learned PCIT erred in feet and in law in not dropping the proceedings u/s 263 and observing that the order passed u/s. 143(3) was made without proper examination and inquiry despite the fact that the learned Deputy Commissioner of income Tax, Circle 3(1), Vadodara ("the AO") had examined the matter and the order u/s 143(3) was passed after application of mind.

3. The learned PCIT erred in tact and in law in holding the order framed u/s. 143(3) of the Act as erroneous and prejudice to the interests of revenue without forming an opinion that the order of the AO is prejudicial to the interests of revenue.

4. The learned PCIT erred in fact and in law in not dropping the proceedings u/s. 263 despite the feet that the original order passed by the learned AO was not erroneous nor was prejudicial to the interest of the Revenue.

Without prejudice to above:

5. The learned PCIT erred in fact and in law in holding that deduction u/s. 80P(2)(a)(v) is not available to the Appellant and thereby revising the assessment invoking powers u/s. 263 of the Act.

6. The learned PCIT erred in feet and in law in not dealing with the alternate claim of deduction u/s.80P(2)(e)of the Act.

7. The learned PCIT erred in fact and in law in not appreciating the fact that the income from ginning and pressing activities is negative and hence there is no error in order passed by the AO nor the order of AO is prejudicial to the interest of the revenue.

8. Your Appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal."

3. The brief facts of the case are that the assessee, a cooperative society engaged in ginning and pressing raw cotton, filed a return of income on September 29, 2015, declaring a total income of Rs. NIL. The assessment for this return was selected for limited scrutiny under the CASS framework. Consequently, the assessment under Section 143(3) of the Income Tax Act was completed on August 30, 2017, where the returned income of Rs. NIL was accepted without further adjustments. However, upon reviewing the assessment records, Principal CIT was of the view that the assessment order was both erroneous and prejudicial to the interests of revenue. A show-cause notice under Section 263 of the Income Tax Act was issued on November 1, 2019, which highlighted several points. Firstly, it referred to the society's annual report for the year 2014-15, which indicated that the

assessee dealt with various entities, including The Cotton Corporation of India Ltd. and several private businesses. Furthermore, it was noted that the society had invested in fully automatic machinery to enhance its competitiveness against private ginning companies. This raised questions regarding compliance with Section 80(P)(2)(V) of the Act, which stipulates that processing must be conducted **without the aid of power using members' agricultural produce**. The examination of records of the assessee also revealed that the assessee engaged in job work for private companies, leading to TDS deductions by these companies, which were subsequently claimed by the assessee. This deduction was deemed disallowable, resulting in an underassessment of income amounting to Rs. 24,51,022/-. Thus, the assessment order passed under Section 143(3) was determined to be both erroneous and prejudicial to the interests of Revenue. In the 263 notice, it was mentioned that the Assessing Officer failed to perform adequate inquiries based on the circumstances presented, resulting in an incomplete assessment process. In light of these findings, the 263 notice called upon the assessee to provide justification for why the assessment order dated August 30, 2017, should not be set aside for reconsideration in accordance with Section 263 of the Act.

4. In response to the notice issued under Section 263 regarding the assessment of the Assessee, the assessee submitted before Principal CIT that the assessee is a cooperative society engaged in the ginning and processing of cotton bales. The Assessee filed its return of income for the assessment year 2015-16 on September 20, 2015, declaring a total income of Rs. Nil. The assessee reported a gross total income of Rs. 24,51,022/-, which was

claimed as a deduction under Section 80P of the Income Tax Act. The Assessee's income from processing cotton bales amounted to Rs. 53,53,310/-, which qualified for the same deduction. The Assessee submitted that there was no error in the assessment and that any jurisdiction under section 263 must be based on the order being both erroneous and prejudicial. The Assessee cited the notices from the assessing officer, which indicated thorough scrutiny of their claims during the course of assessment proceedings, especially regarding the deduction under Chapter VI-A. The Assessee provided explanation regarding their activities, emphasizing compliance with all inquiries and submissions to the effect that they were a cooperative society primarily engaged in ginning, pressing, and selling cotton on behalf of their members. The Assessee submitted that, regardless of the view on the availability of deduction under section 80P(2)(a)(v), the deduction under section 80P(2)(e) was applicable and the assessee was eligible for the alternate claim of deduction u/s 80P(2)(e) of the Act. This section allows for deductions related to income derived from letting godowns for storage and processing of commodities. The Assessee argued that their processing income, derived from activities integral to the operation of the godown, was eligible for deduction. The assessee submitted that the processing activities were essential to the letting of godown and that both activities were interrelated. Furthermore, the Assessee referred to decision that affirmed the eligibility of deductions for cooperative societies engaged in activities like ginning and pressing, provided these were integral to the marketing of members' produce. The assessee submitted before PCIT that the activities of ginning and processing were not standalone but rather

necessary components of the marketing process. In summary, the submission of the assessee before Principal CIT was that the assessing officer had correctly allowed the deduction and that the order was neither erroneous nor prejudicial.

5. On going through the arguments/submissions of the assessee, PCIT observed that during the assessment proceedings under Section 143(3) of the Act, the Assessee claimed a deduction under Chapter VI-A of Rs. 24,51,022/-, which included various components viz. Rs. 8,65,166/- from interest earned on deposits with cooperative societies, Rs. 34,150/- from dividends, Rs. 2,68,900/- from rent income, and Rs. 53,53,310/- from ginning and pressing activities. The total claimed deduction was Rs. 65,21,526/-, limited to a maximum of Rs. 24,51,022/- based on the gross total income. The primary issue concerns the eligibility for the deduction under Section 80P(2)(a)(v) for the ginning and pressing activity. This section requires processing **without the aid of power**, specifically for the agricultural produce of its members. The Assessee's operations, which included work for private parties and the use of fully automatic machinery, do not satisfy this condition.Furthermore, the Assessee had argued that if deductions under Section 80P(2)(a)(v) are disallowed, they should be granted deductions under Section 80P(2)(e). **For this issue clearly a re-verification of the Assessee's claims is necessary**. In light of these findings, Principal CIT held that the case warrants a revision under Section 263. Consequently, the previous order issued under Section 143(3) on August 30, 2017, by the Deputy CIT, Circle-3(1), Vadodara was set aside.

6. Before us, the Counsel for the assessee reiterated the submissions made before PCIT, which are to the effect that ginning and pressing is an integral part of an activity which is covered by Clause (a) to (f) of Section 80P(2) and therefore, the entire profits from such activity including the activity of ginning and pressing is eligible for deduction under Section 80P of the Act. Secondly, the provisions of Section 80P have been inserted to encourage growth of cooperative societies and hence the said section has to be interpreted liberally. Therefore, profits from any activity which is incidental and ancillary to the activity specified in clauses (a) to (f) of Section 80P(2) will be eligible for deduction under Section 80P of the Act. Thirdly, the letting of godown and activity of ginning and pressing are interrelated and interdependent. Since the activity of ginning and pressing is incidental to the activity specified under Section 80P(2)(e), income from ginning and pressing is also eligible for deduction under Section 80P of the Act. Lastly, the Counsel for the assessee submitted that in this case the assessee received income from letting of godown for carrying out ginning and pressing. The assessee stored the raw material of the customer in the godown for carrying out processing and for storing and thereafter processing, the assessee charges godown rent of pressing charges. Therefore, the activity of processing is integral part of letting of godown and an activity which is incidental to the activity specified under Section 80P(2)(e) of the Act.

7. In response, the Ld. D.R. placed reliance on the observation made by the PCIT in the 263 order.

8. We have heard the rival contentions and perused the material on record.

9. On going through the facts of the case we observe that the primary issue for consideration before us is whether the assessee is eligible for deduction under Section 80P(2)(a)(v) of Rs. 53,53,310/- for ginning and pressing activity and the assessee has carried out the above work for private parties by use of fully automatic machine. This fact (then assessee has carried out activities for private parties) has not been denied by the assessee. In light of this fact, the PCIT observed that Section 80P(2)(a)(v) is very clear and categorical in it's wordings that the assessee is eligible for deduction in respect of "the processing, without the aid of power, of agricultural produce of it's members". Therefore, looking into the bare language of the statutory provisions and in light of the activities carried out by the assessee, the PCIT held that the assessee did not specify the requirements of Section 80P(2)(a)(v) of the Act and hence the assessee is not eligible for claim of deduction under such section. Since the Assessing Officer, during the course of assessment processing did not inquire into the crucial aspect, the order passed by the AO was erroneous and prejudicial to the interest of the Revenue. Further, the PCIT also observed that assessee vide submissions dated 12.12.2019 has contended that if it is held that the assessee is not eligible for deduction under Section 80P(2)(a)(v), in the alternative, deduction may be allowed under Section 80P(2)(e) of the Act. The assessee also relied on certain judicial precedents in support of it's claim. However, in view of the alternative claim of the assessee, the PCIT was of the view that this contention of the assessee necessitate re-

verification of the matter in its entirety by the A.O. Therefore, in light of these facts discussed above, the PCIT set-aside the assessment order is being erroneous and prejudicial to the interest of the Revenue. On going through the contents of the assessment order, the assessee's activities during the impugned year under consideration, and the assessee's alternate claim for claim of deduction under Section 80P(2)(e) of the Act, we are of the considered view that there is no infirmity in the order of the Ld. PCIT, so as to call for any interference.

10. In the result, the appeal of the assessee is dismissed.

This Order pronounced in Open Court on	**09/10/2024**

Sd/-	**Sd/-**
(ANNAPURNA GUPTA)	**(SIDDHARTHA NAUTIYAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Ahmedabad; Dated 09/10/2024

TANMAY, Sr. PS ***TRUE COPY***

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

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad