

Tax exemption claim of society was to be allowed after examining whether all its members belonged to Scheduled Tribe

Summary – The Guwahati ITAT in a recent case of Mizoram Co-operative Apex Bank Ltd., (the Assessee) held that Where assessee, a co-operative society, claimed exemption under section 10(27), since its records did not reveal as to whether all individuals admitted as nominal members belonged to schedule tribes and how much loan was granted to them, matter was to be remanded back for disposal afresh

Facts

- The assessee was a co-operative society registered under the Mizoram Co-operative Societies Act, 1991. It was formed for promoting the interest of the members of the scheduled tribes. The membership of the co-operative society consisted of other co-operative societies formed for similar purposes.
- The assessee also admitted certain individuals belonging to Schedule Tribes as its nominal members.
- The assessee filed its return claiming exemption under section 10(27).
- The Assessing Officer rejected assessee's claim holding that nominal members were also allowed to be part of the assessee-society and that such members were entitled to get loans from it.
- The Commissioner (Appeals) noted that none of the nominal members could participate in profit or in management of the assessee society, and that no person could claim loan/credit facilities as a matter of right. He thus allowed claim raised by the assessee.
- On revenue's appeal:

Held

- It was found that loan amounting to Rs. 125.48 crores was granted by the assessee during the year under consideration. It is not known as to how much loan was granted to the nominal members out of the said loan amount. Secondly, it is also not clear as to whether all the nominal members were belonging to Scheduled Tribes. If, majority of the nominal members were of scheduled tribes and major loan amount advanced was to co-operative Societies only then, the claim made by the assessee has to be allowed.
- No verification was done regarding the two issues by the Assessing Officer or by the FAA. Therefore, in the interest of justice, the matter is remanded back to the file of the Assessing Officer for the limited purpose of making above referred verification.