

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ "बी", मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL BENCH "B" MUMBAI

BEFORE SHRI MAHAVIR SINGH, JM AND SHRI RAJESH KUMAR, AM
श्री महाविर सिंग, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष

ITA NO.6139/Mum/2014
(निर्धारण वर्ष / Assessment Year: 2010-11)

Merwanjee Cama Park Co-op Housing society Ltd., Andheri, Mumbai-400058	<u>बनाम/</u> Vs.	Income Tax Officer-Range 20(2)(2),Room No.610, Piramal Chambers, Parel, Mumbai-400012.
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./PAN : AAAAM2119B		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Assessee by	:	Shri Nitesh Joshi
प्रत्यर्थी की ओर से/ Revenue by	:	Shri Suman Kumar
सुनवाई की तारीख /Date of Hearing	:	24.8.2017
घोषणा की तारीख /Date of Pronouncement	:	27.9.2017

आदेश / O R D E R

PER RAJESH KUMAR, A. M:

The captioned is appeal by the assessee pertaining to assessment years 2010-11. The appeal is directed against the order of the CIT(A)-31,

Mumbai, dated 14.08.2014 which in turn has arisen from an order passed by the Assessing Officer dated 21.12.2012 under section 143(3) of the Act.

2. Grounds of appeal taken by the assessee are as under :

"The Id. CIT(A) erred in confirming the disallowance of the deduction under section 80P(2)(d) of the Act, in respect of interest income aggregating to Rs.21,40,550/- earned by the the appellant on the deposits placed with Co-operative Banks, relying on the provisions of section 80P(4) of the Act."

3. The issue raised by the assessee is against the confirming the disallowance of the deduction under section 80P(2)(d) of the Act, in respect of interest income aggregating to Rs.21,40,550/- which was earned by the assessee on the deposits placed with Co-operative Banks.

4. Brief facts of the case are that the assessee filed return of income on 11.8.2010 declaring total income at NIL. Thereafter the case was selected for scrutiny under CASS and the statutory notices u/s 143(2) and 142(1) were issued and served upon the assessee. The AO, during the course of assessment proceedings, noticed that the assessee has earned an income from other sources comprising and interest and dividend of Rs.21,40,605/- and miscellaneous income of Rs.5150/-. The AO further noted that the assessee has claimed deduction u/s 80P(2)(d) of the Act in respect of interest and dividend earned from the deposits held in the Co-operative Banks which is not a co-operative society. The AO observed that the

deduction in respect of the interest and dividend earned from co-operative society is exempt and not from coop banks in view of the amendment brought by the Finance Act, 2006 inserting sub-section 4 restricting the deduction for Co-operative banks on the ground that the Co-operative banks which do not enjoy any tax benefit. Accordingly to the AO section 80P(2)(d) of the Act was amended by inserting new subsection (4) so as to provide that the provisions of the said section shall not apply in relation to any co-operative bank and accordingly, the AO rejected the claim of the assessee to the tune of Rs.21,40,605/- u/s 80P(2)(d) of the Act.

5. In the appellate proceedings, the Id. CIT(A) dismissed the appeal of the assessee by observing and holding as under :

"5.2.11 The appellant has claimed that the interpretation adopted by the AO will render the provisions of the section unworkable. In this context, it must be noted that the section 80P(2)(d) was a workable section when interest or dividend was received and paid within the group of co-operative societies prior to the introduction of subsection (4). The exclusion of co-operative banks from this group by introducing subsection (4) continues to allow the section 80P(2)(d) to work without any inconsistency or absurdity except that the group of entities to which the clause applies now does not include co-operative bank either in paying or receiving the interest or dividend. Thus even after exclusion of cooperative banks, this subsection section 80P(2)(d) works without any inconsistency or absurdity though within a smaller group wherein co-operative banks are excluded. The appellant has failed to show from the speech of the Finance minister as how the intention of legislature was to include "Cooperative Banks" in the group of cooperative societies as payer of interest and dividend in section 80P(2)(d) even though the Finance minister had categorical)ly excluded the cooperative banks

from the scope of section 80P in his speech. As stated earlier, the interpretation of the appellant to include "Cooperative Bank" in the meaning of "Cooperative Society" only while paying interest u/s 80P(2)(d) and not while receiving interest under the said provision appears to be inconsistent and absurd. Thus after due consideration of the facts of the Instant case and the judicial decision cited, I sustain the disallowance of Rs.21,40,550/- u/s 80P(2)(d) and the ground raised by the appellant is dismissed."

6. The Id. AR submitted before the Bench that the issue of eligibility of deduction u/s 80P(2)(d) of the Act in respect of interest and dividend income earned on the deposits placed with the cooperative banks stands covered in favour of the assessee by the series of decisions of the Hon'ble Supreme Court, Jurisdictional High Court and Co-ordinate Benches of the Tribunal and therefore the provisions of sub-section 4 as inserted by Finance Act, 2006 under section 80P(2)(d) of the Act were not applicable to the present case. The Id. AR took us through the Circular No.14/2006, dated 28.12.2006 issued by the BCDT which is placed in the paper books of the assessee and forming part of this record, which deals with the Finance Act, 2006-Explanatory Notes on provisions relating to direct taxes. The Id. AR also took us through the relevant para 22 which deals with withdrawal of tax benefits available to certain co-operative banks. The Id. AR in defense of his arguments relied on following decisions :

- a) The Citizen Co-operative Society Ltd V/s ACIT –Civil appeal no. 10245 of 2017 arising out of SLP(C) No.20044 of 2014 (SC) dated 8.8.2017;

- b) ACIT V/s M/s Bajaj Auto Ltd in ITA No.1047/PN/2012 (AY-2009-10) dated 26.8.2013;
- c) ACIT V/s M/s Janata Grahak Madhyavarti Sahakari Sangh Maryadit in ITA No.573/PN/2013 (AY-2009-10) dated 27.11.2013;
- d) Sindhudurg Zilla Madhyamik Adhyapak Sahakar Patpedhi Maryadit, in ITA No.1825/PN/2013 (AY-2010-11) dated 24.9.2014;
- e) ITO V/s M/s Rahul Urban Co-operative Credit Society in ITA No.300 and 301/M/2016 (AY-2011-12 and 2012-13) dated 18.11.2006;
- f) ITO V/s Govt. Central Printing Press, in ITA No.5030/M/2013 (AY-2010-11) dated 29.7.2015;
- g) Quepem Urban Co-op. credit soc.ltd V/s ACIT (2015) 58 taxmann.com 113(Bom);

On the basis of submissions and case law relied upon by the Id.AR, he submitted that the order of the Id.CIT(A) be set aside and direct the AO to allow the benefit as claimed by the assessee.

7. The Id., DR relied upon the orders of authorities below.

8. We have heard the rival contentions and perused the material placed before us including the impugned orders and case law cited by the Id.AR. After carefully perusing the provisions of sub-section (4) which has been inserted by the Finance Act 2006 is not applicable in the present case. The same has been withdrawn in the case of co-operative bank and not co-operative societies. In our opinion, the assessee is entitled to deduction u/s 80P(2)(d) of the Act with respect to the income earned on the deposits made with the other co-operative banks. The case of assessee is

also support by the ratio laid down in the various case law as discussed herein above.

➤ In the case of M/s Bajaj Auto Ltd (supra), the Tribunal has held as under :

"5. Sub-sec. (4) of Sec. 80P has withdrawn the deduction to the co-operative bank other than primary agricultural credit society or a primary co-operative agricultural and rural development bank w.e.f. the A.Y. 2007-08. The said provision is applicable to the Aurangabad District Central Co-operative Bank (ADCCB) in which the assessee society has kept deposit. The withdrawal of deduction by insertion of Sub-section (4) of Sec. 80P does not change "status" of Aurangabad District Central Co-operative Bank "as a co-operative society which is contemplated in Sec. 80P(1) of the Act. We, therefore, hold that the interest received on the deposit with the Aurangabad District Central Co-operative Bank by the assessee on the deposits are squarely covered u/s. 80P(1)(d) and the interest received on deposit kept with the Aurangabad District Central Co-operative Bank is an allowable deduction. So far as the finding of the Ld. CIT(A) that the provisions of Sec. 80P(2)(a)(i), in our opinion the decision of the Hon'ble Supreme Court in the case of ITA No.1047/PN/2012, Bajaj Auto Ltd,. Aurangabad Totagars Cooperative Vs. ITO (supra) is against the assessee as interest received on deposits with Aurangabad District Central Co-operative Bank cannot be said to be the income derived from providing credit facilities to its members. We, accordingly, answer the ground taken by the revenue. But, finally we have confirmed order of Ld. CIT(A) giving relief to the assessee u/s. 80P(2)(d).

6. In the result, the revenue's appeal is dismissed."

➤ In the case of M/s Janata Grahak Madhyavarti Sahakari Sangh Maryadit (supra) it has been held as under :

"2. At the outset of hearing, learned Authorized Representative pointed out that this issue is covered in favour of assessee by the decision of ITAT, Pune B Bench in ITA No.1047/PN/2012 in the case of ACIT Vs. M/s. Bajaj Auto Ltd. Employees Co-op. Credit Society Ltd., wherein the Tribunal has decided the issue in favour of the assessee by observing as under:

"4. We have heard the Ld. DR. None was present for the assessee. We have also perused the order of the authorities below. In our opinion so far as the amount of interest received on the deposit with Aurangabad District Central Co-operative Bank is concerned the Assessing Officer has not properly appreciated the provisions of law. Sec. 80P(2)(d) reads as under:

80P(1): Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

80P(2): The sums referred to in sub-section (1) shall be the following, namely:

(a)

(b)

(c)

2(d): In respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

5. Sub-sec. (4) of Sec. SOP has withdrawn the deduction to the co-operative bank other than primary agricultural credit society or a primary co-operative agricultural and rural development bank w.e.f. the A.Y. 2007-08. The said provision is applicable to the Aurangabad District Central Co-operative Bank (ADCCB) in which the assessee society has kept deposit. The withdrawal of deduction by insertion of Sub-section (4) of Sec. SOP does not change "status" of Aurangabad District Central Co-operative Bank "as a co-operative society which is contemplated in Sec. 80P(1) of the Act. We, therefore, hold that the interest received on the deposit with the Aurangabad District Central Co-operative Bank by the assessee on the deposits are squarely covered u/s. 80P(1)(d) and the interest received on deposit kept with the Aurangabad District Central Co-operative Bank is an allowable deduction. So far as the finding of the Ld. CIT(A) that the provisions

of Sec. 80P(2)(a)(i), in our opinion the decision of the Hon'ble Supreme Court in the case of Totagars Cooperative Vs. ITO (supra) is against the assessee as interest received on deposits with Aurangabad District Central Co-operative Bank cannot be said to be the income derived from providing credit facilities to its members. We, accordingly, answer the ground taken by the revenue. But, finally we have confirmed order of Ld. CIT(A) giving relief to the assessee u/s. 80P(2)(d)."

2.1 Facts being similar, so following the same reasoning, the assessee is entitled to deduction u/s.80P(2)(d). In view of above, assessee is eligible for claiming deduction u/s.80P(2)(d) of I.T Act, which is available for income earned from business and not from other sources as rightly held by CIT(A). We uphold the same.

3. In the result, appeal filed by revenue is dismissed."

- In the case of Sindhudurg Zilla Madhyamik Adhyapak Sahakar Patpedhi Maryadit (supra), it has been held :

"7. We have considered the rival arguments made by both the sides, perused the orders of the Assessing Officer and the CIT(A) and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. The Ist dispute in the grounds of appeal is regarding the allowability of deduction u/s.80P(2)(d) in respect of interest income of Rs.31,77,452/- and dividend income of Rs.5,41,667/- received by the assessee cooperative society on investment made in deposits/savings accounts and shares of Sindhudurg Central Cooperative Bank. According to the Assessing Officer the deduction is allowable u/s.80P(2)(d) in case of a cooperative society for receiving any interest or dividend income from any other cooperative society. Since the same has been received from a cooperative bank which is distinct from a cooperative society, therefore, the assessee is not entitled to the same for which he disallowed the claim of deduction u/s.80P(2)(d). The same has been upheld by the CIT(A). 7.1 It is the case of the Id. Counsel for the assessee that even though the assessee has received interest on deposits with Sindhudurg Central Cooperative Bank and received dividend on shares of the said cooperative bank, however, the fact

remains that Sindhudurg Central Cooperative Bank is also a cooperative society. 7.2 We find an identical issue had come up before the Tribunal in the case of M/s. Janata Grahak Madhyavarti Sahakari Sangh Maryadit (Supra). We find the Tribunal, following the decision of the Tribunal in the case of Bajaj Auto Ltd. Employees Credit Cooperative Society Ltd. vide ITA No.1047/PN/2012 decided the issue in favour of the assessee and allowed the claim of deduction u/s.80P(2)(d) for interest received on the deposits with the Aurangabad District Central Cooperative Bank. The relevant observation of the Tribunal reads as under :

"2. At the outset of hearing, learned Authorized Representative pointed out that this issue is covered in favour of assessee by the decision of ITAT, Pune B Bench in ITA No.1047/PN/2012 in the case of ACIT Vs. M/s. Bajaj Auto Ltd. Employees Co-op. Credit Society Ltd., wherein the Tribunal has decided the issue in favour of the assessee by observing as under:

"4. We have heard the Ld. DR. None was present for the assessee. We have also perused the order of the authorities below. In our opinion so far as the amount of interest received on the deposit with Aurangabad District Central Co-operative Bank is concerned the Assessing Officer has not properly appreciated the provisions of law. Sec. 80P(2)(d) reads as under:

80P(1): Where, in the case of an assessee being a cooperative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in subsection (2), in computing the total income of the assessee.

80P(2): The sums referred to in sub-section (1) shall be the following, namely:

(a)

(b)

(c) 2(d): In respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

5. Sub-sec. (4) of Sec. SOP has withdrawn the deduction to the co operative bank other than primary agricultural credit society or a primary co-operative agricultural and rural development bank w.e.f. the A.Y. 2007-08. The said provision is applicable to the Aurangabad District Central Co-operative Bank (ADCCB) in which the assessee society has kept deposit. The withdrawal of deduction by insertion of

Sub-section (4) of Sec. SOP does not change "status" of Aurangabad District Central Co-operative Bank "as a co-operative society which is contemplated in Sec. 80P(1) of the Act. We, therefore, hold that the interest received on the deposit with the Aurangabad District Central Co operative Bank by the assessee on the deposits are squarely covered u/s. 80P(1)(d) and the interest received on deposit kept with the Aurangabad District Central Cooperative Bank is an allowable deduction. So far as the finding of the Ld. CIT(A) that the provisions of Sec. 80P(2)(a)(i), in our opinion the decision of the Hon'ble Supreme Court in the case of Totagars Cooperative Vs. ITO (supra) is against the assessee as interest received on deposits with Aurangabad District Central Co-operative Bank cannot be said to be the income derived from providing credit facilities to its members. We, accordingly, answer the ground taken by the revenue. But, finally we have confirmed order of Ld. CIT(A) giving relief to the assessee u/s. 80P(2)(d)."

2.1 Facts being similar, so following the same reasoning, the assessee is entitled to deduction u/s.80P(2)(d). In view of above, assessee is eligible for claiming deduction u/s.80P(2)(d) of I.T Act, which is available for income earned from business and not from other sources as rightly held by CIT(A). We uphold the same.

3. In the result, appeal filed by revenue is dismissed."

7.3 Respectfully following the above decision, we hold that the interest income of Rs.31,77,452/- and dividend income of Rs.5,41,667/- received by the assessee cooperative society is eligible for deduction/s.80P(2)(d) of the I.T. Act. Ground of appeal on this issue by the assessee are accordingly allowed.

8. Since the assessee succeeds on the issue of allowability of deduction u/s.80P(2)(d) of the I.T. Act, therefore, the alternate grounds relating to allowability of the interest & dividend income u/s.80P(2)(a)(i) of the I.T. Act becomes academic in nature and therefore the same are not being adjudicated."

- In the case of M/s Rahul Urban Co-operative Credit Society it has been held as under :

"7. From the above, Ld Counsel for the assessee demonstrated that the members of the Credit Cooperative Society do not constitute "public" and there is no depositing, withdrawal by cheque or draft etc. After considering the said judgment of the Hon"ble jurisdictional High Court in the case of Quepem Urban Cooperative Credit Society (supra), we are of the opinion that decision of the CIT (A) is fair and reasonable and it does not call for any interference. Accordingly, issue raised in the Revenue"s appeal is dismissed.

8. In the result, both the appeals of the Revenue are dismissed."

➤ In the case of Govt. Central Printing Press it has been held :

"5. After hearing the both the parties in this regard, we find the said judgment of the Hon"ble Bombay High Court in the case of Quepem Urban Cooperative Credit Society Ltd (supra) is relevant for the following proposition:

"Where assessee-cooperative society could not be regarded as „Co-operative Bank“ on, mere fact that an insignificant proposition of revenue was coming from non-members, and thus, was entitled for deduction under [section 80P\(2\)\(a\)\(i\)](#) of the Act."

6. Therefore, considering the above, we are of the opinion that the decision taken by the CIT (A) is fair and reasonable and it does not call for any interference. Accordingly, ground no.1 raised by the Revenue is dismissed. Rest of the grounds ie Ground no.2, 3 and 4 are argumentative in nature and therefore, they need no special adjudication. Accordingly, the same are dismissed as academic.

7. In the result, appeal of the Revenue is dismissed".

➤ In the case of Quepem Urban Co-op. credit soc.ltd it has been held :

"Section 80P provides deduction in support of income of co-operative societies. Sub-section (1) allows deduction to Co-operative Society to the extent its gross income includes any income referred to in sub-section (2) in computing its total income. Sub-section (2) refers to various incomes to which the deduction under sub-section (1) is available. In this case, the court is concerned with clause (a)(i) of

sub-section (2), which refers to a co-operative society engaged in carrying on banking business or providing credit facilities to its members. Thus the deduction is available on either of the two activities i.e., banking business or providing credit facilities to its members. The court is not concerned with the other sub-clauses of sub-section (2) or sub-section (3) of section 80P(4) for the purposes of this case. Sub-section (4) provides that section 80P will not apply in relation to a co-operative bank other than a primary agricultural credit society or primary agricultural and rural development bank. Before the instant court, the appellant is not claiming to be a primary agricultural credit society or primary agricultural and rural development bank but it claims to be engaged in providing credit facilities and not a banking society. Thus, not hit by sub section (4) of section 80P. [Para 8]

There is no dispute between the parties that the appellant is a cooperative society as the same is registered under the Co-operative Societies Act. The appellant is claiming deduction of income earned on providing credit facilities to its members as provided under section 80P(2)(a)(i). It is appellant's case that, it is not carrying on the business of the banking. Consequently, not being a co-operative bank the provisions of section 80P(4) would not exclude the appellant from claiming the benefit of deduction under section 80P(2)(a)(i). However in terms of section 80P the meaning of the words Co-operative Bank is the meaning assigned to it in Chapter V of the Banking Regulation Act, 1949. A co-operative bank is defined in section 5(cci) of Banking Regulation Act to mean a State Co-operative Bank, a Central Co-operative bank and a primary co-operative bank. Admittedly, the appellant is not a State Co-operative Bank, a Central Co-operative Bank. Thus what has to be examined is whether the appellant is a primary co-operative bank as defined in Para V of the Banking Regulation Act. Section 5(ccv) of the Banking Regulation Act defines a primary co-operative bank to mean a co-operative society which cumulatively satisfies its three conditions:

- (1) Its principal business or primary object should be banking business of Banking;*
- (2) Its paid up share capital and reserves should not be less than rupees one lakh.*

- (3) *Its bye-laws do not permit admission of any other co-operative society as its member.*

It is accepted position that condition no. (2) is satisfied as the share capital in an excess of rupees one lakh. It has been the appellant's contention that the conditions no. (1) and (3) provided above are not satisfied. [Para 9]

Therefore the issue that arises for consideration is whether the appellant satisfies condition no. (1) and (3) above. The impugned order after referring to the definition of 'Banking Business' as defined in section 5b of the Banking Regulation Act, held that the principal business of the appellant is Banking. Section 5b of the banking regulation Act defines banking to mean accepting of deposits for the purpose of lending or investment, of deposit of money from the public repayable on demand or otherwise. The impugned order juxtaposes the above definition with the finding of fact that the appellant did deal with non-members in a few cases by seeing deposits. This read with Bye-law 43 leads to the conclusion that it is carrying on banking business. This fact of accepting deposits from people who are not members has been so recorded by the Commissioner (Appeals) in his order dated 15-7-2014. Before the Tribunal also the appellant did not dispute the fact that in a few cases they have dealt with non-members. However so far as accepting deposits from non-members is concerned it is submitted that the Bye-law 43 only permits the society to accept deposits from its members. It is submitted that Bye laws 43 does not permit receipt of deposits from persons other than members, the word 'any person' is a gloss added in the impugned order as it is not found in Bye-law 43. It is undisputed that the transactions with non members were insignificant/miniscule. On the above basis it cannot be concluded that the appellant's principal business is of accepting deposits from public and, therefore, it is in banking business. In fact, the impugned order erroneously relies upon by-law43 of the society which enables the society to receive deposits to conclude that it can receive deposits from public. However, the impugned order relies upon bye-law 43 to conclude that it enables the appellant to receive deposits from any person is not correct. Thus in the present facts the finding that the appellant's principal business is of Banking is perverse as it is not supported by the evidence on record. So far as the issue of primary object of the appellant is concerned the

impugned order gives no finding on that basis to deprive the appellant the benefit of section 80P. Consequently there is no occasion to deal with the same as that is not the basis on which the impugned order holds that it is a Primary Co-operative Bank. [Para 10]

So far as condition no. 3 of the definition/meaning of primary Co-operative bank as provided in section 5(ccv) of the Banking Regulation Act is concerned, the same requires the Bye-laws of society to contain a prohibition from admitting any other co-operative society as its member. In fact the bye-laws of the appellant society originally in bye-law 9(d) clearly provided that no co-operative society shall be admitted to the membership of the society. Thus there was a bar but the same was amended with effect from 12-1-2001 as to permit a society to be admitted to the membership of the society. Therefore for the subject assessment years there is no prohibition to admitting a society to its membership and one of three cumulative conditions precedent to be a primary co-operative bank is not satisfied. However the impugned order construed the amended clause 9(d) of the appellant's bye-laws to mean that it only permits a society to be admitted to the membership of the appellant and not a co-operative society. According to the impugned order, a society and a co-operative society are clearly words of different and distinct significance and the membership is only open to society and not to co-operative society. As rightly pointed out on behalf of the appellant the word society as referred to bye-law 9(d) would include the co-operative society. This is so as the definition of a society under the Co-operative Act is co-operative society registered under the Co-operative Act. Besides the qualifying condition 3 for being considered as a primary Cooperative bank is that the bye laws must not permit admission of any other cooperative society. This is a mandatory condition i.e. the bye-laws must specifically prohibit admission of any other co-operative society to its membership. The revenue has not been able to show any such prohibition in the bye-laws of the appellant. Thus even the aforesaid qualifying condition (3) for being considered as a primary co-operative bank is not satisfied. Thus, the three conditions as provided under section 5(cvv) of the Banking Regulation Act, 1949, are to be satisfied cumulatively and except condition (2) the other two qualifying conditions are not satisfied. Ergo, appellant cannot be

considered to be a co-operative bank for the purposes of section 80P(4). Thus, the appellant is entitled to the benefit of deduction available under section 80P(2)(a)(i). [Para 12]

The contention of the revenue that the appellant is not entitled to the benefit of section 80P(2)(a) in view of the fact that it deals with non-members cannot be upheld. This for the reason that section 80P(1) restricts the benefits of deduction of income of co-operative society to the extent it is earned by providing credit facilities to its members. Therefore, to the extent the income earned is attributable to dealings with the non-members are concerned the benefit of section 80P would not be available. In the above view of the matter, at the time when effect has been given to the order of this court, the authorities under Act would restrict the benefit of deduction under section 80P only to the extent that the same is earned by the appellant in carrying on its business of providing credit facilities to its members. [Para 13]

Therefore, appeal is held in favour of assessee and against revenue”

9. In view of the above mentioned discussions and findings of the judicial forums, we set aside the order of Id. CIT(A) and direct the AO to allow deduction.

10. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 27th Sept, 2017.

Sd

sd

(महाविर सिंग/Mahavir Singh)
न्यायिक सदस्य / Judicial Member

(राजेश कुमार/Rajesh Kumar)
लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 27th Sept.2017
SRL,Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

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आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai