

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD SMC BENCH, AHMEDABAD**

[Coram : Pramod Kumar, Accountant Member]

**ITA No.291/Ahd/2016
Assessment Year: 2012-13**

**Dy. Commissioner of Income Tax,
Circle – 3(1), Baroda.**

.....Appellant

Vs.

**Shree Shramjivi Nagrik Sahakari Mandli Ltd.,
Jagannath Haveli,
Near Wadi Tower,
Wadi, Vadodara – 390 017.
[PAN : AAAAS 1934 L]**

.....Respondent

Appearances by :

**Ila Parmar, for the appellant
None, for the respondent**

Date of concluding the hearing : 24.08.2017
Date of Pronouncing the order : 28.08.2017

O R D E R

1. This appeal is directed against learned CIT(A)'s order dated 26.11.2015 in the matter of assessment under section 143(3) of the Income Tax Act 1961, for the assessment year 2012-13.

2. Grievance raised by the appellant is as follows :-

“On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in deleting the disallowance of Rs.33,04,004/- made u/s 80P(2)(a)(i) of the Act, disregarding the provisions of section 80P(2)(d) of the Act which mandates for eligibility of deduction of interest earned from other co-operative societies and not from nationalized banks.”

3. I have heard the learned Departmental Representative but none appeared for the assessee. I have also perused the material on record and considered the facts of the case in the light of the applicable legal position.

4. I find that so far as the core issue in appeal is concerned, it is now covered against the assessee by Hon^{ble} jurisdictional High Court's judgment in the case of State Bank of India vs. CIT [(2016) 389 ITR 578 (Guj)]. The benefit of deduction under section 80P(2), therefore, deserves to be declined. In all fairness, however, what is to be declined deduction is not the gross receipt of interest from nationalized banks, but not income from such receipts. In case assessee has incurred any direct expenditure for earning this income, such expenditure is to be reduced from related receipts, and deduction being declined is to be restricted to resultant net income. I, therefore, remit the matter to the file of the learned CIT(A) for this limited purpose.

5. In the result, the appeal is allowed for statistical purposes in the terms indicated above. Pronounced in the open court today on the 28th day of August, 2017.

Sd/-

Pramod Kumar
(Accountant Member)

Dated: Ahmedabad, the 28th day of August, 2017.

PBN/*

Copies to:	(1) <i>The appellant</i>	(2) <i>The respondent</i>
	(3) <i>CIT</i>	(4) <i>CIT(A)</i>
	(5) <i>DR</i>	(6) <i>Guard File</i>

By order

Assistant Registrar
Income Tax Appellant Tribunal
Ahmedabad Benches, Ahmedabad