

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘A’

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 3358/Ahd/2016

निर्धारण वर्ष/Assessment Year: 2013-14

Shri Jalaram Mahila Co-op. Credit Society Ltd. Jalaram Eye Hospital Compund Alipura, Bodeli 391 135 Dist. Chhotaudepur PAN : AABAS 5194 D	Vs	ITO, Ward 3(1)(2) Baroda.
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Samir Parikh, AR
Revenue by :		Shri Prasson Kabra, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23/05/2018

घोषणा की तारीख /Date of Pronouncement : 23/05/2018

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Present appeal is directed at the instance of the assessee against order of Id.CIT(A)-3, Baroda dated 19.8.2016 passed for the Asstt.Year 2013-14.

2. In the grounds of appeal, sole issue involved for adjudication relates to disallowance interest income earned on fixed deposits with banks which was claimed by the assessee as deduction under section 80P(2)(a)(i) of the Income Tax Act.

3. At the outset, the Id.DR pointed out that issue involved in this appeal is squarely covered in favour of the Revenue by the decision of Hon'ble jurisdictional High Court in the case of State Bank of India Vs.

CIT, 389 ITR 578 for the proposition that in case of co-op credit society, whose activity relates to receiving deposits and lending money to its members, interest derived by depositing surplus funds with the nationalized banks, not being attributable to the business carried on by the assessee, cannot be deducted under section 80P(2)(a)(i) of the Act. However, the Id.counsel for the assessee did not contest this submission of the Id.DR on the issue and reiterated submissions made before the Id.Revenue authorities.

4. Having heard Id. representative and gone through the record, we find that Assessee is a cooperative society engaged in providing credit facilities to its members. The assessee has filed its return of income on 16.7.2013 declaring total income at Rs.NIL by claiming entire net income deductible under section 80P(2)(a) of the Income Tax Act. This claim was denied by the AO on the ground that assessee being a cooperative credit society engaged in providing credit facilities to its members deposits its surplus fund in FDRs/SB accounts with nationalized bank and earn interest out of such deposits, then such interest income would not qualify for deduction under the relevant provisions appended to section 80P of the Act. The AO accordingly rejected the claim of the assessee. The Id.CIT(A) upheld the order of the AO by taking support from the decision of the Hon'ble jurisdictional High Court in the case of CIT Vs. State Bank of India (supra). We find that Hon'ble jurisdictional High Court has held that interest earned from investment made in nationalized bank by a cooperative society engaged in providing credit facilities to its members, is not deductible under section 80P(2)(d). In recent past the Tribunal in number of cases has taken a consistent view on this issue in favour of the Revenue by following above judgment of

the Hon'ble jurisdictional High Court. In this view of the matter, we are not inclined to interfere in the orders of the Revenue authorities on this issue, which we uphold. However, any expenditure incurred by the assessee for earning such income could be allowed to it. In other words, the Id.AO has to determine the net interest income earned by the assessee on such investment with bank, and only thereafter that income has to be excluded from the admissibility of deduction under section 80P(2) of the Act.

5. In the result, appeal of the assessee is treated to be dismissed.

Pronounced in the Open Court on 23rd May, 2018.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**