

आयकर अपीलिय 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. 2320, 2321 and 2322/Ahd/2014
निर्धारण वर्ष/Assessment Year: 2007-08, 2010-11 and 2011-12

M/s.Jafari Momin Vikas Co-op. Credit Society At-Kakoshi, Ta-Siddhpur Dist – Patan	Vs	ITO, ward-2 Patan.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :	Shri H.V. Doshi, AR
Revenue by :	Shri S.K. Dev, SR.DR

सुनवाई की तारीख/Date of Hearing : 14/08/2018
घोषणा की तारीख /Date of Pronouncement : 28/08/2018

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Present three appeals directed at the instance of the assessee against orders of Id.CIT(A), Gandhinagar, Ahmedabad of even dated 19.5.2014 passed for above three assessment years.

2. Common issue raised in these three appeals are against the order of the Id.CIT(A), whereby the Id.CIT(A) confirmed order of the assessing officer AO in denying deduction under section 80P(2)(a)(i) of the Income Tax Act, 1961. Facts in all these appeals are common except variation in quantum, therefore, we proceed to dispose of all these appeals by this common order.

3. At the outset, the Id.DR submitted that issue is covered in favour of the Revenue by judgment of the Hon'ble jurisdictional High Court in the case of State Bank of India Co-operative Society Vs. CIT, 72 taxmann.com 64 (Guj) wherein it has been held that cooperative society engaged in the business of providing credit facilities to its members which earns interest income on the surplus funds parked with the nationalised banks, is not eligible for deduction under section 80P(2)(a)(i) of the Act. Since impugned orders of Revenue authorities are in consonance with judgment of the Hon'ble High Court cited supra, no interference thereof is required and all the appeals of the assessee may be dismissed. However, the Id.counsel for the assessee does not contest judgment of Hon'ble Gujarat High Court, but submitted that in case claim of the assessee is not found to be admissible, then proportionate administrative and financial expenses incurred for earning such interest/investment income be allowed to the assessee.

4. Having heard both the parties and on perusal of the record, we find that Assessee is a cooperative society registered under Gujarat Co-operative Societies Act, 1961 and engaged in providing credit facilities to its members. The assessee-society has filed return of income declaring NIL income, after claiming deduction under section 80P(2)(a)(i) for the interest income earned on FDRs. with the banks. This claim was denied by the AO on the ground that provisions of section 80P(2)(a)(i) does not cover assessee-society. The Id.CIT(A) concurred with the order of the AO by relying upon the judgment of Hon'ble jurisdictional High Court in the case of State Bank of India Co-operative Society (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 eligible for deduction under section 80P. The Tribunal in earlier occasions on similar issue has taken a consistent view by following above judgment of the Hon'ble jurisdictional High Court. Since orders of the Revenue authorities are in accordance with the judgment of the Hon'ble jurisdictional High Court cited supra, no interfere is called for in the impugned orders, which we confirm. However, any expenditure incurred by the assessee for earning such income could be allowed to it, if not already allowed. In other words, the Id.AO has to determine the net interest income as well as misc. income earned by the assessee, and only thereafter that income has to be excluded from the admissibility of deduction under section 80P of the Act.

5. In the result, appeals of the assessee are partly allowed for statistical purpose.

Pronounced in the Open Court on 28th August, 2018.

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

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