

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD - BENCH 'C'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.02/Ahd/2017

निर्धारण वर्ष/Asstt. Year: 2013-2014

M/s.Vir Transport Operators Co-op. Credit and Services Society Godhara Road, Limdi Ta: Jhalod Dist. Dahod 389 180. PAN : AAAAS 2228 K	Vs.	ITO, Ward-2 Dahod.
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अपीलार्थी (Appellant)	प्रत्यर्थी (Respondent)
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Assessee by :	Ms.Uvashi Shodhan, AR
Revenue by :	Shri B.P. Srivastava, Sr.DR

सुनवाई की तारीख/Date of Hearing : 11/09/2018

घोषणा की तारीख/Date of Pronouncement: 17 /09/2018

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of Id.CIT(A)-4, Vadodara dated 30.9.2016 passed for the assessment year 2013-14.

2. The grounds raised in the appeal of the assessee are descriptive in nature, which in fact raises only one issue i.e. denial exemption under section 80P(2)(a)(i)/(ii) and 80P(2)(d) of the Income Tax Act, 1961.

3. Brief facts leading to the present case are that the assessee is a cooperative society engaged in the business of providing credit facilities to its members. Assessee has filed its return of income declaring NIL income. This is after claiming deduction of Rs.73,17,436/- (Interest from Cooperative bank amounting to Rs.3,96,818/- and interest earned from Nationalised Bank amounting to Rs.69,20,618/-). The AO noticed this claim and found that this interest income was not derived by assessee from its activity of providing credit facilities to its members and related activities. Therefore, he proposed to tax this income under "income from other sources" and issued show cause notice to the assessee to justify its case. The assessee by its reply dated 25.2.2016 defended its claim and relied upon certain case laws. The Id.AO did not accept the submissions of the assessee, as he found that the cases relied upon by the assessee covers only cooperative bank which are doing banking business and not cooperative society engaged in providing credit facilities to its members. He accordingly denied the claim of the assessee and added to the income of the assessee. In appeal before the Id.first appellate authority, the Id.CIT(A) concurred with the finding of the Id.AO and confirmed the addition by relying upon various case laws including the decision of Hon'ble jurisdictional High Court in the case of State Bank of India Vs.CIT, 72 Taxmann.com 64 (Guj). Aggrieved by this order of the Id.CIT(A), the assessee is before the Tribunal.

4. Before us, the Id.counsel for the assessee reiterating the submissions made before the lower authorities and prayed for setting aside impugned orders of the Revenue authorities and allowance of deduction under section 80P(2)(a)(i) of the Act.

5. On the other hand, the ld.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 the appeal of the assessee may be dismissed.

6. 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. We find that Hon'ble jurisdictional High Court in the case of State of India (supra) has held that interest earned from investment made in bank by a cooperative society engaged in providing credit facilities to its members, is not eligible for deduction under section 80P(2). 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 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(2) of the Act. The Id.AO is also directed to consider allowance of deduction under section 80P(2)(c)(ii) of the Act in accordance with law.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 17th September, 2018 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER