

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राँव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 240/JP/2018  
निर्धारण वर्ष/Assessment Year : 2012-13.

Shiksha Cooperative Thrift & Credit Society, Malakhera Gate Bahar, Near Post Office, Alwar.	बनाम Vs.	The DCIT, Circle-1, Alwar.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAGAS 4023 A		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)  
राजस्व की ओर से / Revenue by: Shri J.C. Kulhari (JCIT)

सुनवाई की तारीख / Date of Hearing : 15.10.2018.  
घोषणा की तारीख / Date of Pronouncement : 16/10/2018.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 22<sup>nd</sup> January 2018 of Id. CIT (A), Alwar for the assessment year 2012-13. The assessee has raised the following grounds :-

1. The Id. CIT (A) has erred on facts and in law in upholding the validity of the order passed by AO u/s 147 of the IT Act, 1961.
2. The Id. CIT (A) has erred on facts and in law in confirming the action of in not allowing the deduction in respect of interest receipt of Rs. 1,35,241/- from banks u/s 80P(2)(a)(i) of the IT Act, 1961.
3. The assessee craves to amend, alter and modify any of the grounds of appeal.
4. Necessary cost be allowed to the assessee."

2. The assessee is a cooperative society and registered with Registrar of Cooperative Societies. The AO noted that the assessee has received interest from bank and accordingly disallowed the claim under section 80P(2)(a)(i) of the IT Act in respect of the interest from the bank. The Id. A/R of the assessee has submitted that the issue of disallowance of deduction under section 80P(2)(a)(i) is covered by the decision of this Tribunal in assessee's own case for the A.Y. 2014-15. Thus he has submitted that since the issue on merit is covered, therefore, ground no. 1 regarding validity of reopening of the assessment is not pressed. Accordingly ground no. 1 of the assessee's appeal is dismissed being not pressed.

**Ground No. 2 is regarding disallowance of deduction under section 80P(2)(a)(i) in respect of interest received from the bank.**

3. The Id. A/R of the assessee has submitted that the interest in question was received from the savings bank account and, therefore, it was an interest on the amount which was kept by the assessee in the savings bank. The issue is covered by the decision of the Tribunal dated 16<sup>th</sup> July, 2018 in assessee's own case for the assessment year 2014-15.

4. On the other hand, the Id. D/R has relied upon the orders of the authorities below.

5. Having considered the rival submissions as well as the relevant material on record, at the outset, we note that an identical issue has been considered by the Tribunal in assessee's own case for the assessment year 2014-15 vide order dated 16<sup>th</sup> July, 2018 in ITA No. 425/JP/2018 in para 3 as under :-

"3. We have heard the Id. A/R as well as the Id. D/R and considered the relevant material on record. At the outset, we note that an identical issue was considered and decided by this Bench of the Tribunal in assessee's own case for the assessment years 2013-14 and 2014-15 vide order dated 21<sup>st</sup> May, 2018 in ITA Nos. 957 & 958/JP/2017. The relevant finding of the Tribunal in para 4 are as under :-

"4. Having considered the rival submissions as well as relevant material on record, we note that the assessee has earned the interest from savings bank account which is maintained by the assessee with the scheduled banks for the purpose of its day to day activity of providing credit facilities to its members and keeping its funds with the bank. The Hon'ble Karnataka High Court in the case of *Guttigedarara Credit Co-operative Society Ltd. vs. ITO (supra)* while considering an identical issue has observed and held in para 7 to 12 as under :-

"7. From the aforesaid facts and rival contentions, the undisputed facts which emerge are, certain sums of interest were earned from short-term deposits and from savings bank account. The assessee is a Co-operative Society providing credit facilities to its members. It is not carrying on any other business. The interest income earned by the assessee by providing credit facilities to its members is deposited in the banks for a short duration which has earned interest. Therefore, whether this interest is attributable to the business of providing credit facilities to its members, is the question.

8. In this regard, it is necessary to notice the relevant provision of law i.e., Section 80P(2)(a)(i):—

"80P Deduction in respect of income of co- operative societies:— (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.

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

(a) in the case of co-operative society engaged in—

(i) carrying on the business of banking or providing credit facilities to its members, or

(ii) to (vii) \*\* \*\* \*

*the whole of the amount of profits and gains of business attributable to any one or more of such activities."*

**9.** *The word 'attributable' used in the said Section is of great importance. The Apex Court had an occasion to consider the meaning of the word 'attributable' as supposed to derive from its use in various other provisions of the statute in the case of Cambay Electric Supply Industrial Co. Ltd. v. CIT [\[1978\] 113 ITR 84](#) (at page 93) as under:—*

*'As regards the aspect emerging from the expression "attributable to" occurring in the phrase "profits and gains attributable to the business of" the specified industry (here generation and distribution of electricity) on which the learned Solicitor-General relied, it will be pertinent to observe that the legislature has deliberately used the expression "attributable to" and not the expression "derived from". It cannot be disputed that the expression "attributable to" is certainly wider in import than the expression "derived from". Had the expression "derived from" been used, it could have with some force been contended that a balancing charge arising from the sale of old machinery and buildings cannot be regarded as profits and gains derived from the conduct of the business of generation and distribution of electricity. In this connection, it may be pointed out that whenever the legislature wanted to give a restricted meaning in the manner suggested by the learned Solicitor- General, it has used the expression "derived from", as, for instance, in section 80J. In our view, since the expression of wider import, namely, "attributable to", has been used, the legislature intended to cover receipts from sources other than the actual conduct of the business of generation and distribution of electricity.'*

**10.** *Therefore, the word "attributable to" is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to" being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Co-operative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, the society cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is*

*attributable to the profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.*

*11. In this context when we look at the judgment of the Apex Court in Totgars Co-operative Sale Society's case (supra), on which reliance is placed, the Supreme Court was dealing with a case where the assessee/Co-operative Society, apart from providing credit facilities to the members, was also in the business of marketing of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount which was payable to its members from whom produce was bought, was invested in a short-term deposit/security.*

*Such an amount which was retained by the assessee-Society was a liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P(2)(a)(i) of the Act or under Section 80P(2)(a)(iii) of the Act. Therefore in the facts of the said case, the Apex Court held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act. Further they made it clear that they are confining the said judgment to the facts of that case. Therefore it is clear, Supreme Court was not laying down any law.*

*12. In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact this amount which is in the nature of profits and gains, was not immediately required by the assessee for lending money to its members, as there were no takers. Therefore they had deposited the money in a bank so as to earn interest. The said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of Section 80P(1) of the Act. In fact similar view is taken by the Andhra Pradesh High Court in the case of CIT v. Andhra Pradesh State Co-operative Bank Ltd. [\[2011\] 336 ITR 516/200 Taxman 220/12 taxmann.com 66.](#)"*

*Thus it is clear that the Hon'ble High Court has analyzed the provisions of section 80P(2) and particularly the term 'attributable' used in the section and held that the word 'attributable to' is certainly wider in import than the expression*

*'derived from'. Thus on the identical fact, the Hon'ble High Court has held that the decision of Hon'ble Supreme Court in the case of M/s. Totgars Co-operative Sale Society Ltd. vs. ITO (supra) is not applicable in the facts of the present case as in the said case before the Hon'ble Supreme Court the amount deposited with bank did not belong to the society but it was a liability of the society to be paid to the members against the sale of agricultural produce. Thus the sale consideration received by the society to be paid to the members was kept with the bank and earned interest and according the Hon'ble Supreme Court held that such an amount was retained by the society was a liability and it was shown in the Balance Sheet on the liability side. Therefore, on the specific facts of the said case the interest income was held to be non attributable either to the activities mentioned in section 80P(2)(a)(i) or under section 80P(2)(a)(iii) of the Act. In the case in hand, the interest income received by the assessee is on its own funds and not on the funds which is a liability towards the members. Further, this interest income is earned from the savings bank which is maintained for day to day activity of the assessee society for providing credit facilities to its members. Therefore, following the order of the Hon'ble Karnataka High Court in the case of Guttigedarara Credit Co-operative Society Ltd. vs. ITO (supra), we hold that the said interest income earned by the assessee from savings bank account is eligible for deduction under section 80P(2)(a)(i) of the Act."*

*Accordingly, following the earlier order of this Tribunal, we set aside the orders of the authorities below, qua this issue and allow the claim of the assessee."*

Accordingly following the earlier order of this Tribunal, we allow the claim of deduction under section 80P(2)(a)(i) of the Act.

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

Order is pronounced in the open court on 16/10/2018.

Sd/-  
(विक्रम सिंह यादव)  
(VIKRAM SINGH YADAV )  
लेखा सदस्य/Accountant Member

Sd/-  
(विजय पाल रॉव )  
(VIJAY PAL RAO)  
न्यायिक सदस्य/Judicial Member

Jaipur

Dated:- 16/10/2018.

Das/

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

1. The Appellant- Shiksha Cooperative Thrift & Credit Society, Alwar.
2. The Respondent – The DCIT, Circle-1, Alwar.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 240/JP/2018)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar

