

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 1641/Ahd/2018
(निर्धारण वर्ष / Assessment Year : 2014-15)

The Charotar Co-operative Credit Society Ltd. Vada Bazar, Umreth, Dist. Anand 388220	बनाम/ Vs.	Income Tax Officer Ward – 3, Anand
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAC2068D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Divyakant K. Parikh, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri O. P. Sharma, CIT.D.R.

सुनवाई की तारीख / Date of Hearing	18/02/2019
घोषणा की तारीख /Date of Pronouncement	26/02/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the CIT(A)-4, Vadodara ('CIT(A)' in short), dated 24.04.2018 arising in the assessment order dated 14.12.2016 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. The grounds of appeal raised by the assessee read as under:

“1. The ld CIT(Appeals) has erred both in law and on facts in partly confirming the order of the ld.AO in respect addition of interest

income of Rs. 37,85,129/- computed by AO. which is wrongly calculated at para 5.2 of the assessment order being cumulative figure for earlier years. The gross interest of Rs. 39,16,962/- as per Profit & loss account pertaining to year under consideration being inclusive of interest from members, bank FD interest and also interest from cooperative bank, addition made at Rs. 37,85,129/- be held to be untenable and deleted.

2. *The ld CTT(A) failed to appreciate that interest from members of the appellant society and interest from banks including cooperative bank pertaining to the year under consideration is exempt u/s 80P(2) (a) (i) and u/s 80P (2)(d) which ought to have been deleted. It be so held now.*
3. *The ld CIT(A) also erred in law and on facts in not allowing deduction of interest from banks and Sardar Sarovar u/s 80P which is earned from employment of operational funds of appellant. It be allowed now.*
4. *The ld CIT(A) also erred in law and on facts in not allowing deduction of interest income from cooperative bank which is otherwise also exempt and deductible u/s 80P(2)(d). The same be deleted now.*
5. *The ld CIT(A) also erred in law and on facts in not appreciating that as the total expenses as per Profit & Loss account amounted to Rs.37,62,711/- and net surplus being only Rs.2,80,467/-, such total expenses ought to have been allowed in proportion to the composition of various interest income included in gross interest income of Rs.39,16,962/-. It be directed to be so allowed now.”*

4. When the matter was called for hearing, the learned AR for the assessee submitted that the limited grievance of the assessee is towards reckoning of interest income for the purposes of deduction under s.80P of the Act. In this regard, the learned AR for the assessee submitted that it has reported aggregate interest income of Rs.39,16,962/- both from lending to members as well as placing deposit with nationalized banks. The learned AR for the assessee referred to the decision in its own case in ITA No. 387/Ahd/2016 order dated 17/04/2018 to submit that in the identical situation the co-ordinate bench of the Tribunal in its own case has sent back the matter to the file of the AO for suitable verification and re-adjudication. The learned AR accordingly sought identical relief concerning AY 2014-15 in question in parity with the earlier order of the ITAT.

5. The learned DR, on the other hand, submitted that the assessee should provide the details of interest earned from various sources before the ITAT to enable it to give objective directions to the AO in this regard.

6. We have carefully considered the rival submissions. The limited question before us is whether interest earned by the assessee society would qualify for grant of deduction under s.80P(2)(a)(i) of the Act. The assessee, in the instant case, is a co-operative society for the relevant assessment year in question. The AO denied the benefit of Section 80P of the Act to the assessee on both counts (i) interest income derived from its operations connected to members as well as from (ii) deposits placed with nationalized banks. It is well settled that such co-operative societies would be entitled to deduction under s.80P(2)(a)(i) of the Act towards interest income from providing credit facilities to its members in consonance of the judgment of the Hon'ble Supreme Court in Citizen Co-operative Society Ltd. vs. ACIT (2001) 88 taxmann.com 279 (SC). However, interest earned from fixed deposits with nationalized banks (other than co-operative society) will not qualify for grant of deduction under s.80P of the Act. We find that the identical issue was set aside to the file of the AO by the Tribunal in AY 2012-13 in assessee's own case with direction to the AO to apply the aforesaid proposition as laid down in the judicial precedents. The relevant operative para of the order of the Tribunal in ITA No. 387/Ahd/2016 is reproduced hereunder:

“5. With the assistance of the ld.representatives, we have gone through the record carefully. The ld.counsel for the assessee did not dispute with regard to the proposition that after decision of the Hon'ble jurisdictional High Court in the case of State Bank of India Vs. CIT, 389 ITR 578, interest income by the assessee from fixed deposits with nationalized banks will not qualify for grant of deduction under section 80P(2)(a)(i) of the Act. He contended that in this total component of Rs.40,40,724/-, the AO has included different items out of that certain amounts relate to earlier years of assessment. Therefore, he prayed that this issue be set

aside to the file of the AO for verification and re-adjudication. The ld.DR has no objection on this proposition of the ld.counsel for the assessee.

6. On due consideration of the above facts, we set aside the orders of the Revenue authorities. The ld.AO shall re-examine the issue regarding exclusion of interest income from eligible amount for the purpose of deduction under section 80P(2)(a)(i). This exercise be carried out in the light of Hon'ble Gujarat High Court decision in the case of State Bank of India (supra). The ld.AO shall work out net interest income for the current year for the purpose of exclusion from eligible amount for grant of deduction under section 80P(2)(a)(i) of the Act. With the above direction, the appeal of the assessee is allowed for statistical purpose.”

6. In parity, the issue is set aside with identical direction to the file of the AO.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 26/02/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 26/02/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।