

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 1874/Hyd/2017
Assessment Year: 2012-13

Income-tax Officer, Ward – 5(3), Hyderabad.	vs.	State Bank of Hyderabad Employee's Cooperative Credit Society Ltd., Hyderabad.
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PAN – AAIAS 4729D

Appellant

Respondent

Assessee by: Shri Nilanjan Dey
Revenue by: Shri A.V. Raghuram

Date of hearing: 21/02/2019
Date of pronouncement: 15/03/2019

ORDER

PER S. RIFAUR RAHMAN, AM:

This appeal filed by the revenue is directed against the order of CIT(A) – 10, Hyderabad, dated, 29/06/2017 for AY 2012-13.

2. Brief facts of the case are, the assessee is a co-operative society formed for the purpose of welfare of SBH employees and carries on the business of a credit society. For the A.Y 2012-13, the assessee filed its return of income on 29.09.2012 disclosing total income of Rs. 3,81,406/- before 80P, after 80P the total income is nil. The assessment was taken up for scrutiny and completed vide Order u/s 143(3),

dated 25.03.2015, determining total income at Rs. 56,80,735/-. While doing so, the Assessing Officer made an addition of Rs. 52,99,347/- on the ground that the same is interest on share capital not allowable as deduction while computing the income. Further, the Assessing Officer also denied the claim of the assessee for deduction u/s 80P(2)(a)(i) in respect of interest income on FDRs of Rs. 2,98,98,718/- on the ground that the said interest income is to be assessed as "income from other sources.

3. When the assessee preferred an appeal before the CIT(A), the CIT(A) directed to allow deduction u/s 80P following the decision of the Hon'ble High Court of Telangana & AP wherein the Hon'ble Court was upheld the decision of the Tribunal in assessee's own case for AY 2010-11, when the revenue appealed before the Hon'ble High Court against the order of Tribunal.

4. Aggrieved by the order of CIT(A), the revenue is in appeal before us raising the following grounds of appeal:

"1. The Ld.CIT(A) erred both in law and on facts.

2. The Ld.CIT(A) erred in allowing the claim of deduction u/s.80P of the I.T.Act in respect of interest income earned on FDRs made with Nationalized Banks of Rs.2,98,78,718/- and other income of Rs.2,46,195/-.

3. The Ld. CIT(A) erred in not appreciating the principle laid down by Hon'ble Supreme Court in the case of M/s. The Totgars Cooperative Sale Society Ltd Vs. ITO reported in 322 ITR 283 that the interest income earned on FDRs with other banks cannot be attributed to the activity of the society.

4. The Ld.CIT(A) erred in ignoring the fact that Revenue's appeal against the Hon'ble High Court's order in W.P No.12727 of 2016 dated 15.03.2017 in the case

of M/s.Vavveru Cooperative Rural Bank Ltd., is pending for disposal.

5. Any other ground that may be urged at the time of hearing.”

5. Considered the rival submissions and perused the material on record. As the issue under consideration is materially identical to that of AY 2010-11 in assessee's own case, we uphold the order of CIT(A), who has directed the AO to delete the addition made u/s 80P following the decision of the Hon'ble High Court of Telangana & AP in assessee's own case for AY 2010-11 and dismiss the grounds raised by the revenue on this issue.

6. In the result, appeal of the revenue is dismissed.

Pronounced in the open court on 15th March, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 15th March, 2019.

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Copy forwarded to:

1. ITO, Ward – 5(3), 3rd Floor, Room No. 348, D-Block, IT Towers, AC Guards, Hyderabad.
2. State Bank Employees' Cooperative Credit Society Ltd., 5-9-187, SBI Building, Gunfoundry, Abids, Hyderabad.
3. CIT(A) - 10, Hyderabad
4. Pr. CIT – IV, Hyderabad
5. The DR, ITAT, Hyderabad
6. Guard File