

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1132/Ahd/2018

(निर्धारण वर्ष / Assessment Year : 2014-15)

Sahyog Co. Op. Credit Society Ltd. Sahyog Bhavan, Virpur Road, Balasinor 388255 (Dist. Mahisagar)	बनाम/ Vs.	DCIT Panchmahal Circle, Godhra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABAS0346M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

&

आयकर अपील सं./I.T.A. No. 1277/Ahd/2018

(निर्धारण वर्ष / Assessment Year : 2014-15)

Deputy Commissioner of Income-Tax Panchmahal Circle, Godhra	बनाम/ Vs.	M/s. Sahyog Co-Operative Credit Society Ltd. Luhar Bazar, Virpur Road, Balasinor, Dist. Mahisagar, Gujarat
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Assessee by :	Shri Sulabh Padshah, A.R.
राजस्व की ओर से/Revenue by :	ShriMudit Nagpal, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	27/11/2019
घोषणा की तारीख /Date of Pronouncement	29/11/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned cross appeals have been filed by the assessee and Revenue concerning AY 2014-15 against the order of the Commissioner of Income Tax (Appeals)- 4, Vadodara ('CIT(A)' in short), dated 14.02.2018 arising from the assessment order dated 21.11.2016 passed by the AO under s.143(3) of the Income Tax Act, 1961 (the Act).

2. We shall first take up assessee's appeal in ITA No. 1132/Ahd/2018 concerning AY 2014-15.

ITA No. 1132/Ahd/2018 - AY 2014-15 (Assessee's Appeal)

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

- "(1) The order passed u/s 250 of the act on 14/02/2018 for A.Y. 2014-15 by CIT (A)-4, Vadodara upholding the disallowance u/s 80P(2)(a)(i) of the Act Rs.89,50,885/- made by Assessing Officer is illegal, unlawful and against the principles of natural justice.*
- (2) That the facts and circumstances of the case as well as in law the learned CIT (A) ought not to have upheld disallowance of Rs.89,50,885/- u/s 80P(2)(a)(i) of the Act, which includes the interest from another co. op. society.*
- (3) That learned CIT (A) has grievously erred in law and on facts confirming the disallowance of claim of Rs. 14,74,399/- u/s 80P(2)(d) of the Act.*
- (4) That learned CIT (A) has grievously erred in law and on facts confirming the disallowance of claim of Rs. 50,000/- u/s 80P(2)(c) of the Act.*
- (5) That alternatively the deduction of proportionate expenses to earn the interest income be allowed as deduction."*

4. When the matter was called for hearing, the learned AR for the assessee submitted that the assessee is concerned only with Grounds Nos. 3 & 4 noted above. Ground Nos. 1, 2 & 5 are stated to be not pressed.

5. Ground Nos. 1, 2 & 5 are accordingly dismissed as not pressed.

6. As regards Ground No.3, it concerns eligibility of deduction claimed under s.80P(2)(d) of the Act on account of interest income received from investment made with co-operative banks. It was submitted on behalf of the assessee that the issue is squarely covered in favour of the assessee in the case of *Banaskantha District Co-operative Milk Producers Union Ltd. vs. ACIT ITA No.1090/Ahd/2015* wherein the co-ordinate bench has held in favour of assessee by making reference to the decision of the Hon'ble Gujarat High Court in the case of *CIT vs. Sabarkantha District co-operative Milk Producers Union Ltd. Tax Appeal No. 473 of 2014*. It was pointed out on behalf of the assessee that K.D.C.C. Bank is a co-operative bank registered under Co-operative Society Act and investment made in this bank and interest earned. This investment is eligible for deduction under s.80P(2)(d) of the Act.

7. In the given facts as noted above, the claim of the assessee under s.80P(2)(d) of the Act appears to be in consonance with the plain language of the Act. We thus find merit in the claim of the assessee for deduction under s.80P(2)(d) of the Act in respect of income earned from K.D.C.C. Bank.

8. Ground No.3 of the assessee's appeal is allowed.

9. Ground No.4 concerns eligibility of basic deduction to the extent of Rs.50,000/- under s.80P(2)(c) of the Act on the taxable interest earned from nationalized banks and not covered for deduction under s.80P(2)(a)(i) of the Act from the gross total income. In this connection, the learned AR for the assessee submitted that the interest income earned from nationalized banks during the year has been taxed by lower authorities under the head 'income from other sources' following the decision of Hon'ble Gujarat High Court in the case of *State Bank of India (SBI) vs. CIT (2016) 72 taxmann.com 64 (Guj.)*. The learned AR thus contended that income taxed under the head 'income from other sources' is clearly eligible for deduction under s.80P(2)(c) of the Act as it is income earned from

activities other than what is specified in Clause (a) and Clause (b) of sub-section (2) of Section 80P of the Act.

10. In the light of the decision of Hon'ble Allahabad High Court in *Chief CIT (Admn.) vs. Kisan Sahkari Chini Mills Ltd. [2005] 273 ITR 42 (All.)*, Clause (c) of Section 80P(2) of the Act would cover entire income of a co-operative society not covered by Clause (a) and (b). The income earned by the assessee on deposits of nationalized banks was treated as taxable income of the assessee in view of its ineligibility towards deduction under s.80P(2)(a)(i) of the Act. Consequently, the assessee is entitled for basic deduction as provided under s.80P(2)(c) of the Act against such interest income.

11. Ground No.4 of the assessee's appeal is allowed.

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

ITA No. 1277/Ahd/2018 - AY 2014-15 (Revenue's Appeal)

13. The substantive ground of appeal raised by the Revenue reads as under:-

"1 The CIT(A) erred in facts and law in directing AO to verify the assessee's claim of pre-rata/proportionate expenditure from interest income shown by the appellant and allow the said claim of expenditure after due verification, as the assessee has failed to prove the nexus between the expenses claimed to be incurred to earn the interest income disallowed of Rs.89,50,885/-."

14. At the time of hearing, it was submitted by the Ld.AR for the assessee that the appeal filed by the Revenue is hit by recently issued CBDT Circular No.17 of 2019 dated 08/08/2019 revising the previous thresholds pertaining to tax effects. It is *inter alia* noticed that the CBDT vide Instruction No. F. No. 279/Misc/M-93/2018-ITJ dt. 20/08/2019 has observed that Circular No.17/2019 dated 08/08/2019 relating to enhancement of monetary limits is also applicable to all pending appeals. As per aforesaid Circular read with instruction, all pending appeals filed by Revenue are liable to be dismissed as a measure for reducing litigation

where the tax effect does not exceed the prescribed monetary limit which is now revised at Rs.50 Lakhs. In the instant case, the tax effect on the disputed issues raised by the Revenue is stated to be not exceeding Rs.50 lakhs and therefore appeal of the Revenue is required to be dismissed *in limine*.

15. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 17 of 2019. Accordingly, appeal of the Revenue is dismissed as not maintainable. However, it will be open to the Revenue to seek restoration of its appeal on showing inapplicability of the aforesaid CBDT Circular in any manner.

16. In the result, the appeal of the Revenue is dismissed.

17. In the combined result, assessee's appeal is partly allowed whereas Revenue's appeal is dismissed.

This Order pronounced in Open Court on 29/11/2019

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad: Dated 29/11/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रहित / 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 ।