

आयकर अपीलीय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
**BEFORE SHRI D. KARUNAKARA RAO, AM**

आयकर अपील सं. / ITA No.150/PUN/2019  
निर्धारण वर्ष / Assessment Year : 2015-16

Karmaveer Bhauroao Patil Nagari  
Sahakari Pat. Sanstha Maryadit,  
Near Karmaveer Statue, Pushparaj Chowk,  
Shivaji Nagar, Sangli-416416.

PAN : AAATK5108M

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-1(3),  
Sangli

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Amol Kulkarni  
प्रत्यर्थी की ओर से / Respondent by : Shri Prashant Gadekar

सुनवाई की तारीख / <b>Date of Hearing : 26-06-2020</b>	घोषणा की तारीख / <b>Date of Pronouncement : 26-06-2020</b>
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**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

This appeal is filed by the assessee against the order of CIT(A)-1, Kolhapur dated 27.11.2018 for the Assessment Year 2015-16.

2. The grounds raised by the assessee are as under :-

*The following grounds are without prejudice to each other;*

“1. *The Learned Commissioner of Appeal (Ld. CIT(A)) erred under circumstances and facts of the case and in law by confirming assessment order passed by the Learned Income Tax Officer (Ld. AO), holding that appellant, credit co-op society which is engaged in providing credit facilities to its members, is not entitle to the deduction of Rs. 32,43,534/- under section 80P of the Income Tax Act 1961 (the Act).*”

2. *The Ld. CIT(A) has failed to appreciate the explanation and the facts put forth by the Appellant as regards to Ld. AO's order in respect of erroneously holding earning of interest income earned from nominal member who have borrowed secured loan against gold, are not eligible for deduction under section 80P of the Act.*
3. *The Ld. CIT(A) erred under circumstances and facts of the case and in law confirming, holding that Section 80P deduction is allowable on the basis of principle of mutuality, therefore denying deduction for income earned from nominal member who have borrowed secured loan against gold.*
4. *Without prejudice to above grounds, the Ld. CIT(A) erred under circumstances and facts of the case and in law confirming arbitrary calculation of expenses amounts which are allocated to interest income from loan secured by gold amounting to Rs. 2,80,82,547/- earned from appellant's members."*

3. Briefly stated the relevant facts include that the assessee is a Co-operative credit society engaged in providing credit facilities to its members. The assessee Society registered under the Maharashtra Co-operative Societies Act, 1960. There are various categories of members of the society. Assessee earned interest income apart from other miscellaneous income during the year. The assessee filed the return of income declaring Nil income after claiming of deduction u/s 80P of the Act. The Assessing Officer took the case for limited scrutiny in view of the CASS guidelines and found that the assessee is not entitled to claim the deduction u/s 80P of the Act. Further, the Assessing Officer noticed that the members/new members/family members are involved in this earning of receipt of income. Following the Hon'ble Supreme Court judgements in the case of **Citizen Co-operative Society Ltd.** vs. ACIT in Civil Appeal No.10245/2017 dated 08.08.2017, the benefits of section 80P(2) of the Act was denied by the Assessing Officer.

4. During the first appellate proceedings, the CIT(A) examined the applicability of the judgement of the Hon'ble Supreme Court in the case of Citizen Co-operative Society Ltd. (supra), which recognizes the existence of two kinds of members of cooperative society and held that the assessee does not amount to cooperative bank and invoked the provisions of section 80P(2) of the Act.

5. Aggrieved with the above decision of the CIT(A), the assessee is in appeal before the Tribunal with above extracted grounds.

6. Before me, ld. Counsel for the assessee mentioned that in the appeal of the assessee, the core issue for adjudication relates to grant of deduction u/s. 80P(2)(a)(i) of the Act in respect of 'interest earning' on the loans giving to the category of members of the society. In the assessment, the Assessing Officer denied the claim partly in respect of interest earned from the "nominal members". The Assessing Officer is of the opinion that "nominal members" are not proper members of society. Therefore, the interest earned u/s. 80P(2)(a)(i) of the Act should not apply at this segment of members of society. On this issue, the ld. Counsel submitted that the matter stands covered in favour of the assessee by virtue of the order of Tribunal in the bunch of cases slating with Sai Prerana Gramin Blgarsheti Sahakari Pat Sanstha Maryadit Vs. ITO in ITA No. 1431/PUN/2018 for A.Y. 2015-16, order dated 03-07-2019. Bringing our attention to paras 3 to 11 the ld. Counsel submitted that the same constitutes operational paras and all the interest earned from all the members including the nominal

members stands covered by the beneficial provision of section 80P of the Act.

7. In reply, ld. DR for the Revenue submitted that in assessee own case on identical issue for the A.Y. 2016-17, the matter is remanded back to the file of CIT(A) for complying with certain directions. For the sake of completeness, the para para extracted hereunder :

*“9. Considering the facts of the case and the above settled nature of the issue at the level of the Tribunal (supra), I am of the opinion that the alternate prayer of the assessee, the issue may be remanded back to the file of the CIT(A) for fresh adjudication, is a fit prayer and the same is accepted. Accordingly, the CIT(A) is directed to pass a speaking order after following and considering the above view of the order of the Tribunal (supra) on the disputed issue. Needless to say, the CIT(A) shall pass a speaking order after granting a reasonable opportunity of being heard to the assessee. Thus, the grounds raised by the assessee are allowed for statistical purposes.”*

8. To maintain the consistency, the present issue raised in the grounds of appeal is also allowed for statistical purpose. The Assessing Officer is directed to examine the applicability of the said decisions of the Tribunal and grant reasonable opportunity to the assessee. Accordingly, the grounds are allowed for statistical purposes.

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

Order pronounced on this 26<sup>th</sup> day of June, 2020.

**Sd/-**  
**(D. KARUNAKARA RAO)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक Dated : 26<sup>th</sup> June, 2020.  
RK

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Kolhapur;
4. The CCIT, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" /  
DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune