

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PANAJI BENCH, PANAJI – VIRTUAL COURT**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI S. S. VISWANETHRA RAVI, JM**

आयकर अपील सं. / ITA No.65/PAN/2018  
निर्धारण वर्ष / Assessment Year : 2013-14

Mahishwadagi Grama Seva Sahakari  
Sangh Ltd.,  
Mahishwadagi, Tal. Athani,  
Dist. Belagavi- 591304.

PAN : AAAAM0355P

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-1(4),  
Belgaum.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Chetan Chougule  
Revenue by : Shri Sourabh Nayak

सुनवाई की तारीख / Date of Hearing : 08.11.2021  
घोषणा की तारीख / Date of Pronouncement : 12.11.2021

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals), Gulbarga ('CIT(A)' for short) dated 30.11.2017 for the assessment year 2013-14.

2. The appellant raised the following grounds of appeal :-

“1. Because the Commissioner of Income Tax (Appeals) has overlooked the facts of the case and not taken into account the submissions given by the Appellant with respect to interest received from mandatory statutory deposits kept with District Central Bank and also dividend received from such mandatory investments and considered them as Income From Other Sources and also interest received from Savings Bank a/c is also considered as Income from Other sources, instead of considering the same as income attributable to providing credit facilities to its members and denied the deduction claimed under section 80P(2)(a)(i) of Income Tax Act, 1961.

2. Because, the learned Assessing Officer erred in denying the deduction claimed under section 80P(2)(a)(i) of Income Tax Act, 1961.

3. Because the learned Assessing Officer has overlooked the facts of the case with respect to interest received from mandatory statutory deposits kept with District Central Bank and also dividend received from such mandatory

*investments and considered them as Income From Other Sources and also interest received from Savings Bank a/c is also considered as Income from Other sources, instead of considering the same as income attributable to providing credit facilities to its members and denied the deduction claimed under section 80P(2)(a)(i) of Income Tax Act, 1961.*

4. *The assessee craves leave to add / alter any of the grounds of appeal before or at the time of hearing."*

3. Briefly, the facts of the case are that the appellant is a cooperative society engaged in the business of providing credit facilities to its members and supply of seeds & fertilizers. The return of income for the assessment year 2013-14 was filed on 26.09.2013 declaring a total income of Rs.Nil after claiming deduction u/s 80P(2)(a)(i) of the Income Tax Act, 1961 ('the Act') of Rs.13,06,676/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(4), Belagavi ('the Assessing Officer') vide order dated 28.10.2015 passed u/s 143(3) of the Act at a total income of Rs.3,27,868/-. While doing so, the Assessing Officer denied the exemption of interest income of Rs.3,27,868/- being the interest income received from other cooperative banks on the ground that the same was not eligible for deduction u/s 80P(2)(a)(i) of the Act as such income was not attributable to the assessee main object of the business. Even on appeal before the ld. CIT(A), the same was confirmed by the ld. CIT(A) placing reliance on the decision of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. vs. ITO, 322 ITR 283.

4. Being aggrieved by the above decision of the ld. CIT(A), the appellant is in appeal before us in the present appeal.

5. Before us, it is contended that the decision of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra) has no application

to the facts of the present case and the income received from other cooperative society is eligible for deduction u/s 80P(2)(d) of the Act.

6. On the other hand, ld. Sr. DR placed reliance on the orders of the lower authorities.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the exemption of interest income on investment from other hanks of Rs.3,27,868/- u/s 80P(2)(d) of the Act. Admittedly, the interest income of Rs.3,27,868/- was received from the following :-

<i>S. No.</i>	<i>Income from other sources</i>	<i>Amount</i>
1	<i>BDCC Bank Dividend</i>	<i>Rs.52,471</i>
2	<i>AXIS Bank Interest received</i>	<i>Rs.28,768</i>
3	<i>BDCC Bank Interest on FD deposits</i>	<i>Rs.1,74,039</i>
4	<i>Interest on other Deposits</i>	<i>Rs.72,590</i>
	<i>Total</i>	<i>Rs.3,27,868</i>

8. From the above details, it is clear that in respect of income received from Axis Bank of Rs.28,768/-, the balance of interest income was received from other cooperative banks. Then the issue that comes up for consideration is that whether the cooperative banks is the cooperative society or not?. This issue was considered by the Hon'ble Karnataka High Court in the case of CIT vs. Totagars Cooperative Sale Society, 392 ITR 74 (Karn) wherein the Hon'ble High Court referring to the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra) held that the exemption is not to be denied in respect of interest income on investment as same falls under the provisions

of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. Even on going through the decision of Pune Bench of the Tribunal in the case of Sant Motiram Maharaj Sahakari Pat Sanstha Ltd. vs. ITO, 120 taxmann.com 10 wherein the Tribunal after making reference to the decisions of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra) had noticed that the divergent views of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. vs. ITO, 55 taxmann.com 447 and the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. vs. CIT, 50 taxmann.com 278. The Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. (supra) had referred the view of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. (supra). The Pune Bench of the Tribunal in the case of Sant Motiram Maharaj Sahakari Pat Sanstha Ltd. (supra) after referring to the decision of the Hon'ble Karnataka High Court in the case of Pr.CIT vs. Totgars Co-operative Sales Society Ltd., 395 ITR 661 held that no application exemption under the provisions of section 80P(2)(d) of the Act by observing as under :-

*“9. The Pune Benches of the Tribunal in Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016, dated 9-4-2019) decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014, dated 19-8-2015) has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.) allowing deduction u/s. 80P on interest income and that of the Hon'ble Delhi High Court in Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110 DTR 89 (Delhi) not allowing deduction u/s.80P on interest income earned from banks. Both the Hon'ble High Courts took into consideration the ratio laid down in the case of Totgar's Cooperative Sale Society Ltd. (2010) 322 ITR 283 (SC). There being no direct judgment from the Hon'ble jurisdictional High Court on the point, the Tribunal in Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra).*

10. *Insofar as the reliance of the ld. DR on the case of Pr. CIT and Another Vs. Totagars Cooperative Sales Society (2017) 395 ITR 611 (Kar.) is concerned, we find that the issue in that case was the eligibility of deduction u/s.80P(2)(d) of the Act on interest earned by the assessee co-operative society on investments made in co-operative banks. In that case, the assessee was engaged in the activity of marketing agricultural produce by its members; accepting deposits from its members and providing credit facility to its members; running stores, rice mills, live stocks, van section, medical shops, lodging, plying and hiring of goods and carriage etc. It was in that background of the facts that the Hon'ble High Court held that the assessee could not claim deduction u/s.80P(2)(d) of the Act. When we consider the impact of this decision, it turns out that the same is not germane to case under consideration in view of the position that the claim of the instant assessee is directly about the eligibility of deduction u/s.80P(2)(a)(i) of the Act and not u/s.80P(2)(d). Moreover, so many decisions relied on by the ld. AR amply go to prove that the view taken by the AO, cannot by any standard, be construed as not a possible view. We, therefore, hold that the ld. Pr. CIT was not justified in exercising the revisional power anent to interest income of Rs.22,34,270/- earned on investments made with co-operative banks.”*

9. In the light of the above legal position, we hold that the interest income earned by the appellant society on investment made with the cooperative bank which are cooperative societies is also exempt from the Income Tax Act. Therefore, we remand the matter back to the file of the Assessing Officer with a direction to allow the deduction u/s 80P(2)(d) of the Act after satisfying himself that the interest income is earned on investment from the cooperative societies. Thus, the grounds of appeal raised by the assessee are partly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 12<sup>th</sup> day of November, 2021.

**Sd/-**

**(S. S. VISWANETHRA RAVI)**  
न्यायिक सदस्य/JUDICIAL MEMBER

**Sd/-**

**(INTURI RAMA RAO)**  
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> November, 2021.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Gulbarga.
4. The Pr. CIT, Belgavi.
5. DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.