

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**" SMC" BENCH, AHMEDABAD**  
(CONDUCTED THROUGH VIRTUAL COURT AT AHMEDABAD)

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT**  
**And**  
**SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No. 1089/AHD/2019  
निर्धारण वर्ष/Asstt. Year: 2014-15

The Anklav Mercantile Co-op Credit Society Ltd., Near Bus Stand, Swati Shopping Center, Anklav-388510.  <b>PAN: AAAAT2888A</b>	Vs.	D.C.I.T., Circle-1(3), Vadodara.
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<b>(Applicant)</b>		<b>(Respondent)</b>
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Assessee by :	Shri B.T. Thakkar, A.R
Revenue by :	Shri Urjit Shah, Sr.D.R

सुनवाई की तारीख / **Date of Hearing** : **09/11/2021**  
घोषणा की तारीख / **Date of Pronouncement**: **30/11/2021**

**आदेश/ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax(Appeals)-5, Vadodara, dated 16/04/2019 arising in the matter of assessment order passed under s. 143 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2014-15.

2. The only issue raised by the assessee is that the learned CIT-A erred in confirming the order of the AO by sustaining the addition of ₹ 9,43,169.00 by disallowing the deduction claimed under section 80P(2)(a)(i) of the Act.

3. The facts in brief are that the assessee in the present case is a co-operative society and engaged in the activity of providing credit facilities to the members. In the year under consideration there was the surplus fund available with the assessee which was deposited with the banks in order to generate the interest income as well as to maintain the liquidity for the repayment of the deposits accepted from the members. The assessee on such funds has earned gross amount of interest income of amounting to Rs. 27,37,579.00 only. As per the AO, the impugned amount of interest was not arising to the assessee from the activities of financing to the members. Thus the AO computed the proportionate amount of interest of Rs. 9,43,170.00 on the deposits from non-members which was not eligible for deduction under section 80P(2)(a)(i) of the Act. This amount was calculated in the manner as discussed below:

*Accordingly out of an amount of Rs.35,74,110/- claimed as deduction u/s.80P(2)(a)(i), amount not qualifying for deduction needs to be worked out. On gross interest receipts of Rs.98,51,702/- total income is worked out of Rs.NIL/-. As such on gross interest receipt from non credit cooperative banks of Rs.27,37,579/- profit which would not qualify for deduction u/s.80P(2)(a)(i) would work out to be Rs.9,93,169/-(27,37,579 X 35,74,110/98,51,702). Same is therefore not considered for deduction and balance of Rs.25,80,941/- is allowed as deduction u/s.80P(2)(a)(i) of the Act.*

4. Aggrieved assessee preferred an appeal to the learned CIT (A) who confirmed the order of the AO.

5. Being aggrieved by the order of the learned CIT (A) the assessee is in appeal before us.

6. The learned AR before us submitted that the amount of interest income from non-members is eligible for deduction under section 80P(2)(a)(i) of the Act in view

of the judgment of Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. v. CIT reported in 123 taxmann.com 161.

7. On the other hand the learned DR vehemently supported the order of the authorities below.

8. We have heard the rival contentions of both the parties and perused the materials available on record including the case law cited by the learned AR for the assessee. The provisions of section 80P(2)(a)(i) of the Act provides the deduction to a co-operative society engaged in the business of banking or providing credit facilities to its members. The provisions of the section are without any ambiguity. In other words, the income from the activity of financing from the members is only eligible for deduction under section 80P(2)(a)(i) of the Act. If there is any income arising to the co-operative society from the non-members that will not be subject to deduction under section 80P(2)(a)(i) of the Act. In holding so we draw support and guidance from the judgment of the Hon'ble Gujarat High Court in the case of State Bank of India versus CIT reported in 72 Taxmann.com 64 wherein it was held as under:

*The Income Tax Appellate Tribunal was also justified in holding that interest income of Rs.16,14,579/- and Rs.32,83,410/-respectively on deposits placed with State Bank of India was not exempt under section 80P(2)(a)(i) of the Income Tax Act, 1961.*

8.1 In view of the above, it is only the interest derived from the credit provided to its members which is deductible under section 80P(2)(a)(i) of the Act and the interest derived by depositing surplus funds with the State Bank of India is not being attributable to the business as envisaged under the provisions of the Act. Thus the same cannot be deducted under section 80P(2)(a)(i) of the Act.

8.2 In view of the above, there remains no ambiguity that income received by the assessee for Rs. 9,43,170.00 on the money deposited with the bank is not eligible for deduction under section 80P(2)(a)(i) of the Act.

8.3 Now coming to the case law cited by the learned AR for the assessee, in the case of *Mavilayi Service Co-operative Bank Ltd. v. CIT* by the Hon'ble Supreme Court of India wherein, the primary agricultural credit societies were held to be entitled to the benefit of the deduction contained in Section 80P(2)(a)(i) of the Act, notwithstanding the fact that the society may also be giving loans to its members which are not related to agriculture. However, if it is found that there are instances of loans being given to the non-members, profits attributable to such loans obviously were not liable to be deducted. The essence of this decision is that absolute denial of deduction under Section 80P(2)(a)(i) of the Act to the assessee's (cooperative societies) engaged in the providing credit facilities to the non-members along with its members is not warranted under the Act and only that part of profit and gains that is attributable and/or pertains to the non-members shall not be allowed as deduction under Section 80P(2)(a)(i) of the Act. The pertinent observation of the Hon'ble Court is reproduced as under:

*“Clearly, therefore, once section 80P(4) is out of harm's way, all the assessees in the present case are entitled to the benefit of the deduction contained in section 80P(2)(a)(i), notwithstanding that they may also be giving loans to their members which are not related to agriculture. Also, in case it is found that there are instances of loans being given to non-members, profits attributable to such loans obviously cannot be deducted.”*

8.4 Thus, the profits and gains attributable to non-members arising as a result of advancement of loans was held to be not an allowable deduction under Section 80P(2)(a)(i) of the Act. In view of the above, we do not find any merits in the argument advanced by the learned counsel for the assessee. Thus, we hold that there is no infirmity in the order of the learned CIT (A), requiring any interference.

Hence, we uphold the same. Hence, the ground of appeal of the assessee is dismissed.

9. In the result, the appeal filed by the assessee is **dismissed**.

**Order pronounced in the Court on 30/11/2021 at Ahmedabad.**

**Sd/-  
(RAJPAL YADAV)  
VICE PRESIDENT**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

Ahmedabad; Dated  
*Manish*

**(True Copy)**  
30/11/2021