

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SH. NARENDER KUMAR CHOUDRY, JUDICIAL MEMBER**

**ITA No.5030/Del/2018  
Assessment Year: 2014-15**

<b>DCIT Circle – 3 (1) Bulandshahr (APPELLANT)</b>	<b>Vs</b>	<b>Zila Sahkari Bank Ltd. Moti Bagh, Bulandshahr PAN No.AAAAZ00058 (RESPONDENT)</b>
--	-----------	---

**C.O.No.53/Del/2021  
(In ITA No.5030/Del/2018)  
Assessment Year: 2014-15**

<b>Zila Sahkari Bank Ltd. Moti Bagh, Bulandshahr PAN No.AAAAZ00058 (APPELLANT)</b>	<b>Vs</b>	<b>DCIT Circle – 3 (1) Bulandshahr (RESPONDENT)</b>
--	-----------	---

Appellant by	Sh. P. S. Kashyap, CA
Respondent by	Sh. T. Kipgen, CIT DR

Date of hearing:	19/04/2022
Date of Pronouncement:	04/05/2022

**ORDER****PER PRADIP KUMAR KEDIA AM :**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals), Aligarh ('CIT(A)' in short), dated 17.04.2018 concerning AY 2014-15.

2. We shall first take up revenue's appeal for adjudication.
3. The grounds of appeal raised by the revenue reads as under :-
  1. *That the Learned CIT(A) has erred in law and facts in allowing exemption to the assessee in respect of dividend income of Rs. 1,75,84,390/- received from other cooperative societies.*
  2. *That the appellate decision is not consistent with the provisions of section 80P, which remain no longer applicable to the assessee (RRB) after sub section 4 inserted to section 80P by the Finance Act, 2006 and operative from 01.04.2007 onwards.*
  3. *That the learned CIT(A) has not appreciated that when the income of the assessee through its banking activities is admittedly beyond the purview of section 80P and the tax is being paid, how the dividend income being regularly earned may be eligible for exemption when the same has not been put to tax by the dividend paying societies i.e. IFFCO and UP Cooperative Society.*
  4. *That the first appellate authority while adjudicating the appeal has erred in law by overlooking sub section 4 inserted to section 80P effective right from 01.04.2007 and the clarifications thereon given by CBDT vide their OM dated 25.08.2006 and Circular No.06/2010 dated 20.09.2010.*

5. *That the appellant craves leave to add, delete, amend or modify any of the ground(s) of appeal either before or at the time of hearing of appeal.*

4. The controversy involved in the present appeals concerns towards the eligibility of deduction under section 80 P (2) (d) in the hands of the assessee towards receipt of dividend. The CIT(A) has allowed such deduction of dividend earned by the assessee. It may be apt to reproduce the operative para of the order of the CIT(A) on the issue :-

#### 7.2 Decision

The AO has disallowed the claim of deduction of Rs. 1,75,84,390/-with regard to the dividend received from IFFCO Ltd and UP State Cooperative Bank) mainly on the ground that DDT has not been made on such dividend. This issue has already been decided by me while dealing with ground No. 2 of the appeal for A.Y. 2013-14 (Appeal No. 06/2016-17/GZB/Aligarh) as under:-

*“This ground pertains to the issue of exemption claimed in respect of the dividend received from IFFCO. The issue has already been decided in the appellant’s own case for an earlier assessment year by Ld. CIT (A), Ghaziabad. In the appeal for A.Y 2012-13, Ld. CIT (A) Ghaziabad decided the issue as under*

*The appellant has received dividend from IFFCO and U.P. Cooperative Bank Ltd. which are cooperative society. As far as IFFCO is concerned, the fact that it is a cooperative society is an established fact in earlier years and this year also tire A.O. has mentioned that it is a cooperative society. As far as the U.P. Cooperative Bank Ltd. is concerned, the A.O. has not mentioned anything about it. I have verified that it is cooperative society as is ascertainable from the Registration Certificate produced by the appellant and on my behest the appellant has also produced I.T. Return of the Bank wherein the status is mentioned to be cooperative society. Even otherwise it is not the case of the A.O. that U.P. Cooperative Bank Ltd. is a company. Thus, the amount of Rs. 1,82,02,860/- being dividend received from the aforesaid cooperative societies is expressly exempt u/s 80P (2)(d) of the Act. Similar view has also been taken by the CIT (A) in appellant’s own’*

*case" for A.Yrs. 2007-08, 2009-10, 2010-11 & 2011-12. In view of the above, it is held that the Assessing Officer is not justified to make addition of Rs. 1,82,02,860/-. The same is deleted and related grounds of appeal are allowed.*

*I am in fully agreement with the decision of Ld. CIT(A) as quoted above.*

*Following the same, I hereby delete the addition of Rs. 22,24,860/- and allow this ground. "*

As the issue is identical, following the above, the addition of Rs.1,75,84,390/- is being allowed.

5. We have heard the rival submissions on the controversy raised in the revenue's appeal. It is the case of the assessee that the assessee a Cooperative Society in terms of order of the competent authority as placed at page No.3 and 4 of the paper book. It is further the case of the assessee that the assessee society has received dividend amounting to Rs.1,75,84,390/- from other cooperative societies such as IFFCO and UP State Cooperative Bank. This being so, the dividend received from cooperative societies are expressly exempt u/s. 80P(2) (d) of the Act. Reliance was placed on the decision of the Coordinate Benches in its own case concerning assessment year 2010-11 in ITA No.2746/Del/2015 dated 31.07.2018 and A.Y.2012-13 in ITA No.3913/Del/2016 dated 18.09.2018.

6. Having regard to the view expressed by the coordinate bench in the identical fact situation and having regard to the plain law of section 80P (2)(d) of the Act, we see no reason to interfere with the order of the CIT(A).

7. In the result, the appeal filed by the revenue is dismissed.

**C.O.No.53/Del/2021 (A.Y. 2014-15)**

8. At the time of hearing, the Ld. Counsel for the assessee pointed out that addition of Rs.8,03,892/-on account of additions of opening balance of Special Reserve is unjustified in the realm section 41 (1) of the Act. However, on being enquired about the nature of Special Reserve, it was submitted that the amount represents the transfer of liabilities appearing in the balance sheet to the Reserve as the entries are not traceable. On being further asked, it was submitted that the liabilities were long outstanding, the genesis which is not known resulting in transfer to Special Reserve. In course of discussion, the Ld. Counsel consented that the grounds in cross objections may be taken as not pressed.

9. The cross objection of the assessee is thus dismissed as not pressed.

10. The appeal of revenue and cross objection of assessee are dismissed.

Order pronounced in the open court on 04.05.2022.

Sd/-  
**(N.K. CHOUDHRY)**  
**JUDICIAL MEMBER**

Sd/-  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- .04.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	20.04.2022
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	09.05.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	