

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri Shamim Yahya (AM)

I.T.A. No. 1699/Mum/2021 (A.Y. 2017-18)

Innova Premises Co-op. Society Limited A-501, Marathon Innova Off Ganpatrao Kadam Marg, Lower Parel Mumbai-400 013.  PAN : AABAI0129C (Appellant)	Vs.	ITO, Ward-22(1)(7) Room No. 120 1 <sup>st</sup> Floor Piramal Chamber Lal Baug, Parel Mumbai-400 012.  (Respondent)
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Assessee by	Ms. Rucha Vaidya
Department by	Shri Pravin Salunkhe
Date of Hearing	30.03.2022
Date of Pronouncement	02.05.2022

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 31.7.2021 pertains to A.Y. 2017-18.

2. The solitary issue arising in the appeal is disallowance of deduction claimed under section 80P(2)(d) of the I.T. Act of Rs. 14,03,311/- being interest earned from Cooperative Bank.

3. Upon hearing both the parties and perusing the records, I find that the issue is covered in favour of the assessee by the decision of Hon'ble Supreme Court in the case of Citizen Cooperative Society Ltd. (Civil Appeal No. 10245 of 2017 vide order dated 8.8.2017). Moreover similar issue was elaborately dealt by a larger bench of Honourable Supreme Court in the case of The Mavilayi Service Cooperative Bank Ltd. & Ors. Vs. CIT, Calicut & Ors. (Civil Appeal Nos. 7343-7350 of 2019 dated 12.1.2021) and the issue was decided in favour of the assessee. We may gainfully refer to the Hon'ble Apex Court

observation in para 21 as under, wherein the Hon'ble Apex Court referred to its earlier decision of Citizen Cooperative Society Ltd. (supra) :-

“The following propositions may be culled out from the judgment:

(I) That section 80P of the IT Act is a benevolent provision, which was enacted by Parliament in order to encourage and promote the growth of the co-operative sector generally in the economic life of the country and must, therefore, be read liberally and in favour of the assessee;

(II) That once the assessee is entitled to avail of deduction, the entire amount of profits and gains of business that are attributable to any one or more activities mentioned in subsection (2) of section 80P must be given by way of deduction;

(III) That this Court in Kerala State Cooperative Marketing Federation Ltd. and Ors. (supra) has construed section 80P widely and liberally, holding that if a society were to avail of several heads of deduction, and if it fell within any one head of deduction, it would be free from tax notwithstanding that the conditions of another head of deduction are not satisfied;

(IV) This is for the reason that when the legislature wanted to restrict the deduction to a particular type of co-operative society, such as is evident from section 80P(2)(b) qua milk co-operative societies, the legislature expressly says so - which is not the case with section 80P(2)(a)(i);

(V) That section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2). This proviso specifically excludes only co-operative banks, which are cooperative societies who must possess a licence from the RBI to do banking business. Given the fact that the assessee in that case was not so licenced, the assessee would not fall within the mischief of section 80P(4).”

4. Respectfully following the precedent as above, I set aside the order of learned CIT(A) and decide the issue in favour of the assessee.

5. In the result, appeal stands allowed.

Order pronounced in the open court on 2.05.2022.

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 02/05/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

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BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai