

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.609/PUN/2021
निर्धारण वर्ष / Assessment Year: 2017-18

Rajarshi Shahu Nagari Sahakari Pat Sanstha Ltd., A/p. Murgud, Tal. Kagal, Dist. Kolhapur-416219. PAN : AAAAR1341Q	Vs.	ITO, Ward-1(3), Kolhapur.
Appellant		Respondent

Assessee by : None
Revenue by : Shri Arvind Desai
Date of hearing : 23.05.2022
Date of pronouncement : 26.05.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2017-18 arises against the CIT(A)- National Faceless Appeal Centre (NFAC), Delhi's order dated 23.09.2021 passed in case no. ITBA/NFAC/S/250/2021-22/1035827237(1) involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short the Act.

Case called twice. None appears at assessee's behest. It is accordingly proceeded *ex-parte*.

2. Coming to the assessee's sole substantive ground challenging correctness of both the lower authorities' action disallowing section 80P(2)(a)(i) deduction claim of Rs.1,99,640/-, Mr. Desai vehemently argued that it represents its interest income derived from fixed deposits made in nationalized banks. The same is found to be no more *res-integra* in light of this tribunal's co-ordinate bench order in ITA No.1700/PUN/2017 dated 27.12.2021 Nashik Road Nagari Sahkari Patsanstha Ltd. Vs. ITO rejecting Revenue's identical stand as follows :-

"9. We heard the rival submissions and perused the material on record. Admittedly, the appellant is a Cooperative society formed under the provisions of Maharashtra Cooperative Societies Act, 1960 with the objective of accepting deposits and lending money to its members. The money which is not immediately required for the purpose of lending to the members is deposited with Bank of Baroda in the form of Fixed Deposit. The question is whether the interest so earned qualifies for exemption u/s. 80P(2)(a)(i) of the Act. The AO as well as the CIT(A) were of the opinion that the interest earned from third parties or non-members does not qualify for exemption u/s.80P. It is an admitted position that the interest so earned should be taxed as 'income from other sources' There is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of

Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s.80P(2)(a)(i) of the Act. The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) has taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Respectfully following the decision of the Coordinate Bench, we hold that the interest income earned on the investment of surplus money with banks is also eligible for exemption u/s.80P(2)(a)(i) of the Act. Thus, the grounds of appeal No. 1 & 2 stands allowed."

3. I adopt the foregoing reasoning mutatis mutandis to delete the impugned section 80P(2)(a)(i) disallowance in very terms.

4. This assessee's appeal is allowed in above terms.

Order pronounced on this 26th day of May, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022.

Sujeet (DOC)

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-NFAC, Delhi.
4. The Pr. CIT/CCIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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