

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G": NEW DELHI**

**BEFORE  
SHRI G.S. PANNU, HON'BLE PRESIDENT  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 4838/Del/2019  
Asstt. Year : 2014-15

ITO, Ward-63(5), New Delhi.	Vs.	The Jawala Co-operative Urban Thrift and Credit Society Ltd. 218, DDA Comml Complex, Cycle Market, Jhandewalan Extn., New Delhi – 110 055 PAN AABAT0824C
(Appellant)		(Respondent)

Assessee by:	Ms. Gunjan Jain, CA
Department by :	Shri Umesh Takyar, Sr. DR
Date of Hearing	07.04.2022
Date of pronouncement	31.05.2022

**ORDER**

**PER ASTHA CHANDRA, JM**

The appeal by the Revenue is directed against the order dated 25.03.2019 of the Ld. Commissioner of Income Tax (Appeals) - 20, New Delhi ("**CIT(A)**") pertaining to the assessment year 2014-15.

2. The ground of appeal reads as under:-

"1. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.1,47,98,826/- made on account of disallowance of deduction claimed u/s 80P of the Income Tax Act, 1961 on the interest received on the deposits made in various bank accounts, without appreciating the fact that it is a case of parking of surplus funds and the case is squarely covered by the decision of Hon'ble Supreme Court in the case of Totgar's Co-operative Sales Society*

*Ltd. (in CA No. 1622 of 2010), the decision of Hon'ble Delhi High Court in the case of M/s Mantola Co-operative Thrift & Credit Society Ltd. (ITA No. 128/2017) and the decision of Karnataka High Court in the case of CIT vs. M/s Sangam Sahakari Karkane Niyamith (order dated 30.10.2017 in ITA No. 100011/2016).”*

3. Briefly stated, the assessee is a co-operative society engaged in providing credit facility to its members. For the assessment year 2014-15, the assessee e-filed its return of income declaring income of Rs. 1,42,020/- after claiming deduction of Rs. 58,23,657/- under section 80P of the Income Tax Act, 1961 (“**Act**”). The return was processed under section 143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS and assessment under section 143(3) was framed at income of Rs. 59,65,677/- after disallowance of deduction claimed under section 80P amounting to Rs. 58,23,657/-. This assessment order was set aside under section 263 of the Act by the Ld. Pr. CIT, Delhi – 21, New Delhi. Consequently the Ld. Assessing Officer framed fresh assessment on 04.12.2017 under section 143(3) read with section 263 of the Act making aggregate disallowance under section 80P of Rs. 1,47,98,826/- comprising of the following interest:

- (i) interest accrued on FDRs with Ramgarhia Co-operative Bank Ltd. - Rs. 12,63,296/-
- (ii) interest on FDR with Bombay Mercantile Cooperative Bank Ltd. - Rs. 1,50,92,005/-
- (iii) interest on savings bank account - Rs. 1,42,017/-

4. On appeal preferred by the assessee before the Ld. CIT(A), the impugned disallowance of Rs. 1,47,98,826/- under section 80P stands deleted with observations contained in para 6.2.2 and 6.2.3 of the appellate order reproduced herein below :-

*“6.2.2. The appellant during appeal hearing submitted that the issues have been decided in favour of the appellant through the order of the Hon’ble ITAT*

*Delhi for A.Ys. 2010-11 and 2011-12 vide ITA No. 2900 & 2901/Del/2015 date of order 26.04.2018. In this order the Hon'ble ITAT Delhi, allowed the deduction claimed by the appellant u/s 80P(2)(i) on interest from Bombay Mercantile Cooperative Bank and on dividend income from Delhi Cooperative Bank stating that the interest income on fixed deposits with other cooperative societies falls within the exemption granted by Sec. 80P(2)(d) of the Act. The ITAT further stated that the interest income from Bank is exempt u/s 80P(2)(i) of the Act. While giving their judgment the hon'ble Delhi ITAT have referred to the judgment of the case of Tumkar Merchants Souharda Credit Cooperative Ltd. vs. ITO decided by the Hon'ble Karnataka High Court.*

*6.2.3 The appellant further submitted that CIT (A)-11, Delhi and CIT (A)-27, Delhi for A.Ys. 2012-13 and 2013-14 have respectively allowed deduction on such interest on FDR with other Cooperative Banks u/s 80P of the Act following the orders of the Hon'ble ITAT in the case of the assessee as mentioned above. Since the Hon'ble ITAT Delhi have already allowed deduction of the income as mentioned above and as the order of the Hon'ble ITAT Delhi is binding on me the Assessing Officer is directed to delete the addition made for the A.Y. 2014-15 and A.Y. 2015-16.”*

5. This has brought the Revenue before us.

6. We have heard the Ld. Representative of the parties and perused the material on record. It is observed that the Revenue had raised identical contentions and relied on decision of Hon'ble Supreme Court in the case of M/s. Totgar's Cooperative Sales Society Ltd. which was found to be distinguishable on facts by the Tribunal in earlier years. Nothing new has been brought on record by the Revenue before us. In Revenue's appeal in ITA No. 2982/Del/2018 for the preceding assessment year 2013-14 the Tribunal recorded the following findings in para 9 of the order dated 12.11.2021:-

*“9. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that in the earlier years on the identical issue revenue's appeal were dismissed and there is no distinguishing*

*factors pointed out by the Ld. DR in the present appeal as well. Therefore, the matter is squarely covered by the decision of the Tribunal in assessee's own case for earlier years. The relevant part of decision of the Tribunal in ITA No. 2900 & 2901 for Assessment Years 2010-2011 & 2011- 2012 is reproduced as under*

*"8. Therefore, the word "attributable to" is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to" being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Cooperative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society is riot carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.*

*8.1. In the said decision, the Judgment of Hon'ble Supreme Court in the case of Totgar's Cooperative Sales Society Ltd., (supra) have been considered by the High Court and it was held that the said decision is confined to facts of that case. The appeal of assessee was allowed. The Ahmedabad Bench of the Tribunal in the case of Arbuda Credit Co-op. Society Ltd., vs. ACIT (supra), followed the Order in the case of same assessee for A.Y. 2008-09 and decision of the Hon'ble Karnataka High Court above and decided the issue in favour of the assessee and held that assessee is eligible for deduction under section 80P(2)(a)(i) of the I.T. Act for the interest income earned on unutilized idle funds kept for business purposes of the Society being deposited with Banas Bank. The Ld. CIT(A) in the case of the same assessee for A.Y. 2013-2014 vide order dated 15.02.2018 following the order of the Tribunal for A.Y. 2008- 2009 allowed the claim of assessee. Therefore, there were no justification for Ld.*

*CIT(A) in not following the order of the Tribunal in the case of same assessee for A.Y. 2008-2009. The Hon'ble Madhya Pradesh High Court in the case of Agrawal Warehousing and Leasing Ltd., 257 ITR 235 held that the Ld. CIT(A) not only committed judicial impropriety but also erred in law in refusing to follow the order of the Appellate Tribunal. The conditions of Section 80P(2)(a)(i) and also 80P(2)(d) are satisfied by assessee.*

*8.2. Considering the totality of the facts and circumstances, we are of the view that authorities below were not justified in refusing to grant deduction under section 80P of the I.T. Act in favour of the assessee. We, accordingly, set aside the orders of the authorities below and delete the entire addition. The appeal of assessee is allowed."*

7. We respectfully follow the decision (supra) of the Tribunal and dismiss the appeal of the Revenue.

8. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the open court on 31<sup>st</sup> May, 2022.**

**sd/-**

**(G. S. PANNU)  
PRESIDENT**

**sd/-**

**(ASTHA CHANDRA)  
JUDICIAL MEMBER**

Dated: 31/05/2022

**Veena**

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
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	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	