

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA Nos.328 & 329/PUN/2022

निर्धारण वर्ष / Assessment Years : 2015-16 & 2017-18

Shri P.Z.Bagal Gramin Sah. Patpedhi Ltd., 194, Main Road, Shondkheda, Nimgul, Dist. Dhule – 425 408 Maharashtra PAN : AADAS3493F	<b>Vs.</b>	ITO, Ward-3, Dhule
(Appellant)		(Respondent)

Appellant by Shri Vinay Kawdia  
Respondent by Shri M.G. Jasnani

Date of hearing 03-08-2022  
Date of pronouncement 05-08-2022

आदेश / ORDER

PER R.S.SYAL, VP :

These two appeals by the assessee relate to the assessment years 2015-16 and 2017-18. Since both the appeals are based on identical facts and common grounds, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. Briefly stated, the facts for the A.Y. 2015-16 are that the assessee is a Cooperative Society. It claimed deduction u/s.80P(2)(a)(i) in respect of interest income earned from banks

to the tune of Rs.5,69,277/-. The AO held such interest income to be falling under the head “Income from other sources” and hence, ineligible for deduction u/s.80P. The ld. CIT(A) affirmed the decision of the AO, against which the assessee has approached the Tribunal.

3. I have heard both the sides and gone through the relevant material on record. It is seen that similar disallowance was made by the AO in his order passed for the A.Y. 2014-15. When the matter came up before the ld. CIT(A), he accepted the assessee’s claim by relying on certain decisions, as have been elaborately set out in the impugned order. Still, the ld. CIT(A) for the instant year did not accept the order of his predecessor and observed a departure.

4. The Pune Benches of the Tribunal in *Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016)* decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014)* has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon’ble

Karnataka High Court in *Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.)* allowing deduction u/s. 80P on interest income and that of the Hon'ble Delhi High Court in *Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110 DTR 89 (Delhi)* not allowing deduction u/s.80P on interest income earned from banks. Both the Hon'ble High Courts took into consideration the *ratio* laid down in the case of *Totgar's Cooperative Sale Society Ltd. (supra)*. No direct judgment from the Hon'ble jurisdictional High Court on the point having been pointed out, the Tribunal in *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra)* preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of *Tumkur Merchants Souharda Credit Cooperative Ltd. (supra)*. The position continues to remain the same before this Tribunal also.

5. Reliance of the CIT(A) on the case of *Pr. CIT and Another Vs. Totagars Cooperative Sales Society (2017) 395 ITR 611 (Kar.)* is not relevant. The issue in that case was the eligibility of deduction u/s.80P(2)(d) of the Act on interest earned by the

assessee co-operative society on investments made in co-operative banks. In that case, the assessee was engaged in the activity of marketing agricultural produce by its members; accepting deposits from its members and providing credit facility to its members; running stores, rice mills, live stocks, van section, medical shops, lodging, plying and hiring of goods and carriage etc. It was in that background of the facts that the Hon'ble High Court held that the assessee could not claim deduction u/s.80P(2)(d) of the Act. When we consider the effect of this decision, it turns out that the same is not germane to case under consideration in view of the position that the primary claim of the extant assessee is directly about the eligibility of deduction u/s.80P(2)(a)(i) of the Act. In view of the above discussion, I overturn the impugned order on this account.

6. Similar is the position regarding A.Y. 2017-18. The assessee earned interest income from banks to the tune of Rs.15,95,700/-. The AO invoked section 80P(2)(d) and made the disallowance at Rs.15,30,289/-. The ld. CIT(A) followed the suit. It is common submission by both the sides that the facts and circumstances of this appeal are *mutatis mutandis*

similar to those of the A.Y. 2015-16. Following the view taken herein above, I overturn the impugned order on this score.

7. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 05<sup>th</sup> August, 2022.

**Sd/-**  
**(R.S.SYAL)**  
**उपाध्यक्ष/ VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 05<sup>th</sup> August, 2022  
*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The NFAC, Delhi
4. The CIT concerned  
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC"
5. / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

		Date	
1.	Draft dictated on	03-08-2022	Sr.PS
2.	Draft placed before author	05-08-2022	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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