

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC-3” BENCH, AHMEDABAD**

**BEFORE SHRI P.M. JAGTAP, VICE PRESIDENT AND  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA Nos.398 & 399/Ahd/2020  
Assessment Years: 2014-15 & 2015-16**

Shri Kalyan Co-op Credit Society Ltd., vs.  
101, Santosh Chambers,  
Sardar Nagar,  
Chhani Road,  
Vadodara.  
[PAN – AAFAS 4544 R]  
(Appellant)

Income Tax Officer,  
Ward – 1(2)(5),

(Respondent)

Appellant by : Shri Bhavin Marfatia, AR  
Respondent by : Shri Atul Pandey, Sr. DR

Date of hearing : 29.07.2022  
Date of pronouncement : 05.08.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

These two appeals are filed by the assessee against two separate orders dated 15.02.2020 & 19.02.2020 passed by the CIT(A), Vadodara-5 for the Assessment Years 2014-15 & 2015-16 respectively.

2. The assessee has raised the following grounds of appeal:

**ITA No.398/Ahd/2020 – A.Y. 2014-15**

- “1. The learned Commissioner of income Tax (Appeals)-5, Vadodara [“the CIT(A)”] erred in fact and in law in confirming the action of the Income Tax Officer, Ward-1(2)(5), Vadodara (“the AO”) in treating income of Rs.10,09,670/- as income from other sources taxable u/s.56 of the Income Tax Act, 1961 (“the Act”) instead of business income.
2. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in not allowing deduction u/s.80P(2)(a(i) of the Act on the income of Rs.10,09,670/-.

**Alternate Plea:**

3. *The learned CIT(A) erred in fact and in law in restricting the claim of deduction of expenses from interest income of Rs.10,09,670/- to direct expenses incurred instead of direct and indirect expenses including administrative expenses and thereby restricting the claim of deduction of expenses.*
4. *The learned CIT(A) erred in fact and in law in computing the expenses allowable at Rs.3,01,992/- instead of Rs.5,47,481/- and thereby computing the net income taxable at Rs.7,07,678/-.*
5. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest 234A of the Act.*
6. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest 234B of the Act.*

**ITA No.399/Ahd/2020 – A.Y. 2015-16**

- “1. *The learned Commissioner of income Tax (Appeals)-5, Vadodara [“the CIT(A)”] erred in fact and in law in confirming the action of the Income Tax Officer, Ward-1(2)(5), Vadodara (“the AO”) in treating income of Rs.9,36,750/- as income from other sources taxable u/s.56 of the Income Tax Act, 1961 (“the Act”) instead of business income.*
2. *The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in not allowing deduction u/s.80P(2)(a(i) of the Act on the income of Rs.9,36,750/-.*

**Alternate Plea:**

3. *The learned CIT(A) erred in fact and in law in restricting the claim of deduction of expenses from interest income of Rs.9,36,750/- to direct expenses incurred instead of direct and indirect expenses including administrative expenses and thereby restricting the claim of deduction of expenses.*
4. *The learned CIT(A) erred in fact and in law in computing the expenses allowable at Rs.2,44,051/- instead of Rs.4,76,042/- and thereby computing the net income taxable at Rs.6,92,699/-.*
5. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest 234A of the Act.*
6. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest 234B of the Act.*

3. We are taking up ITA No.398/Ahd/2020 for Assessment Year 2014-15 as both the assessment years A.Y. 2014-15 & 2015-16 have identical issues. The assessee is a co-op society engaged in the business of accepting deposits and providing credit facilities to its members. The assessee filed its return for the financial year under consideration on 25.08.2014 declaring total income at Rs. Nil after claiming deduction under Section 80P of the Income Tax Act, 1961 to the extent of Rs.22,45,102/-. The Assessing Officer observed that the assessee co-op society earns interest on funds which are invested with Banks as well as from its members but claimed deduction under Section 80P of the Act on the income including the entire interest income whereas Section 80P(2)(a)(i) implies that the deduction is available on profit & gains of business attributable to the activity of providing credit facilities to its members. Since the interest earned on FDR with SBI is not from its members, the Assessing Officer held that since the amount of Rs.10,09,672/- aroused on the funds invested in deposits with banks or in other securities, the said income falls in the category of "income from other sources" under Section 56 of the Act not eligible for deduction under Section 80P of the Act. Therefore, the Assessing Officer disallowed the assessee's claim of deduction under Section 80P to the extent of Rs.10,09,672/- earned from FDR with SBI and treated the same as income from other sources under Section 56 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee thereby relying upon the Hon'ble Gujarat High Court's decision in the case of State Bank of India vs. CIT (2016) 389 ITR 578 (Guj.)

5. The Ld. AR submitted that ground nos.1 & 2 are decided against the assessee by the Hon'ble Jurisdictional High Court's decision in the case of SBI vs. CIT (Supra) but the Ld. AR submitted that alternate plea of the assessee in respect of restricting the claim of deduction of expenses from interest income of Rs.10,09,672/- should have been considered by the CIT(A) as the same are direct expenses incurred including administrative expenses and, therefore, restricting the claim of deduction of expenses is not proper and justifiable. The Ld. AR further submitted that the actual expenses incurred are Rs.5,47,481/- and the same should be taken into account.

6. The Ld. DR relied upon the Assessment Order and the Order of the CIT(A).
7. We have heard both the parties and perused all the relevant material available on record. As regards the ground nos.1 & 2, the same are decided by the Hon'ble Jurisdiction High Court of Gujarat in the case of SBI vs. CIT (supra) against the assessee and there is no factual difference in the present assessee's case. Therefore, ground nos.1 & 2 are dismissed.
8. In respect of Ground nos.3 & 4, if the claim of 80P has been rejected, income from FDRs are treated as income from other sources under Section 56 of the Act. The expenses related to the said interest income earned by the assessee has to be allowed which is permissible under the Statute of law. Therefore, we remand back this issue for examination to the file of the Assessing Officer to verify the proportionate expenditure and if it is just and proper then the same may be allowed. Needless to say the assessee be given opportunity of hearing by following principles of natural justice. Ground nos.3 & 4 are partly allowed for statistical purposes.
9. As regard ground nos.5 & 6, the same are consequential and hence not adjudicated upon.
10. ITA No.398/Ahd/2020 for A.Y. 2014-15 is partly allowed for statistical purposes.
11. ITA No.399/Ahd/2020 for A.Y. 2015-16 is contested on identical issues, hence the same observation of A.Y. 2014-15 will apply in A.Y. 2015-16. This appeal filed by the assessee is thus allowed for statistical purposes.
12. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on this 5<sup>th</sup> day of August, 2022.

*Sd/-*  
**(P.M. JAGTAP)**  
Vice President

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 5<sup>th</sup> day of August, 2022**

**PBN/\***

*Copies to:*

- (1) The appellant*
- (2) The respondent*
- (3) CIT*
- (4) CIT(A)*
- (5) Departmental Representative*
- (6) Guard File*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*