

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC-1” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER AND  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.1421/Ahd/2018  
Assessment Year: 2014-15**

Divine Grace Green Farming and Marketing Multi State Co-operative Society Limited,  
8/10/3B, Nr. Navjivan Hotel,  
Kakoshi Char Rasta,  
Siddhpur – 384 151.  
[PAN – AAAAD 6412 A]  
(Appellant) vs. Asstt. Commissioner of Income Tax  
Mehsana Circle, Mehsana.  
(Respondent)

Appellant by : Shri Hardik Vora, AR  
Respondent by : Shri Shramdeep Sinha, Sr. DR

Date of hearing : 15.07.2022  
Date of pronouncement : 26.08.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

This appeal is filed by the assessee against the order dated 12.03.2018 passed by the CIT(A), Gandhinagar, Ahmedabad for the Assessment Year 2014-15.

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

- “1 *Learned CIT(A) has erred in confirming addition made by AO by way of disallowance of Rs.17,75,546/- in respect of patronage rebate expenses debited to P&L A/c.*
2. *Learned CIT(A) has erred in confirming the order of AO for not considering the revised claim made by appellant in respect of deduction u/s 80P by way of additional claim of Rs.30,22,778/- i.e. enhancement of claim of deduction u/s. 80P from Rs.10,68,556/- to Rs.40,91,334/-.*
3. *Learned CIT(A) has erred in confirming the order of AO for not revising the working of deduction u/s 80P on the basis of disallowance of investment patronage rebate expenses of Rs.17,75,546/-”*

3. The assessee is a co-operative society filed its return of income on 13.09.2014 thereby declaring its total income at Rs.30,22,778/- only after claiming deduction under Section 80P(2)(a)(i) of the Income Tax Act, 1961 amounting to Rs.10,68,556/-. The Assessing Officer observed that the assessee had claimed patronage rebate expenses of Rs.17,75,546/- which were in the nature of distribution of profit and not interest expenses as claimed by the assessee. After taking into account the reply of the assessee, the Assessing Officer made disallowance of Rs.17,75,546/- towards patronage rebate expenses.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the investment patronage rebate is cost of fund borrowed from members for business activity of the society. The rebate is to be paid as per the terms fixed in agreement signed by the members of the society. The terms of payment is based on the profit derived by the co-operative society from the employment of the funds of investors. Therefore, it is the cost of funds employed by the society. The difference of interest and investment patronage rebate is that the interest is normally based on fixed percentage of the funds and investment patronage rebate is based on the gain received from the fund employed. Thus, it is a charge to the society and hence allowable expenses under Section 37 of the Act. Ld. AR relied upon the earlier year assessment order wherein the Assessing Officer has allowed similar expenses.

6. As regards ground no.2, the Ld. AR submitted that the CIT(A) did not consider the revised claim made by the assessee in respect of deduction under Section 80P of the Act by way of additional claim of Rs.30,22,778/- i.e. enhancement of claim of deduction under Section 80P of the Act from Rs.10,68,556/- to Rs.40,91,334/-. Ld. AR submitted that the Assessing Officer relied upon the decision of Goetze (India) Limited vs. CIT (2006) 157 taxman 1 (SC) wherein it was held by Hon'ble Apex Court that the assessee cannot amend a return filed by him for making a claim for deduction other than filing a revised return. Ld. AR submitted that Hon'ble Karnataka High Court in the case of PCIT vs. Karnataka State Co-operative Federation Limited held that the

assessee's fresh claim before appellate authority is entertainable even when same is not claimed in original return of income nor assessee has filed revised return of income to make such claim. The Ld. AR submitted that the Hon'ble Karnataka High Court has taken cognizance of the Hon'ble Supreme Court decision in case of Goetze India (supra).

7. As regards ground no.3, the Ld. AR submitted that this is alternative ground. If the patronage rebate expenses are not allowed, then the assessee is entitled for deduction under Section 80P of the Act.

8. The Ld. DR submitted that as regards ground no.1, the said expense has an element of dividend and not that of interest and thus the patronage rebate expenses cannot be treated at par with the interest expenses. Ld. DR relied upon the Assessment Order and the order of the CIT(A).

9. As regards ground no.2, the Ld. DR relied upon the Assessment Order, Order of the CIT(A) and the order of the Hon'ble Apex Court in the case of Goetz (India) Limited (Supra).

10. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the patronage expenses related to rebate given by the assessee. The element of interest is missing in giving patronage rebate to the members of the society as this is the investment. Patronage rebate is cost of fund borrowed from members for business activity of the society. It is based on agreement signed by the members of the society and thus it cannot be simply stated that the interest income and related expenses are at par with investment patronage rebate is allowable under Section 37 of the Act and the Assessing Officer as well as the CIT(A) has not taken cognizance of the same. Thus, ground no.1 is allowed.

11. As regards to ground no.2, the CIT(A) has not at all considered the revised working of the deduction under Section 80P of the Act and its related expenses. As this ground is in relation to ground no.1, the same should be taken into consideration in the light of ground no.1. Hence, ground no.2 is dismissed.

12. As regards ground no.3, the same is alternative argument of the assessee and since the main ground has been allowed by us, this ground does not sustain. Hence, ground no.3 is dismissed.

13. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on this 26<sup>th</sup> day of August, 2022.

Sd/-  
**(ANNAPURNA GUPTA)**  
Accountant Member

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

**Ahmedabad, the 26<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*