

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
" SMC" BENCH, AHMEDABAD

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.486/AHD/2020
निर्धारण वर्ष/Asstt. Year:2017-2018

Dharti Co-operative Credit Society Ltd., 1 st Floor, Chirag Plaza, Nr. Manav Ashram Char Rasta, Visnagar Road, Mehsana-384001. PAN: AAAJD0461E	Vs.	A.C.I.T., Circle, Mehsana.
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(Applicant)		(Respondent)
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Assessee by :	Shri Dhrunal Bhatt, with Shri G.M. Thakor, A.Rs
Revenue by :	Shri Atul Pandey, Sr. D.R

सुनवाई की तारीख/**Date of Hearing** : **12/10/2022**
घोषणा की तारीख/**Date of Pronouncement**: **16/11/2022**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals), Gandhinagar, dated 11/08/2020 arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-18.

2. The only issue raised by the assessee is that the learned CIT-A erred in confirming the order of the AO by sustaining the addition of ₹ 4,52,905/- by disallowing the deduction claimed under section 80P(2)(a)(i) of the Act.

3. The facts in brief are that the assessee in the present case is a co-operative society and engaged in the activity of providing credit facilities to the members. In the year under consideration, there was the surplus fund available with the assessee which was deposited with the banks in order to generate the interest income as well as to maintain the liquidity for the repayment of the deposits accepted from the members. The assessee on such deposit has earned an interest income of ₹ 4,52,905/- only. As per the AO, the impugned amount of interest was not arising to the assessee from the activities of financing to the members. Thus, the AO disallowed the same and added to the total income of the assessee.

4. Aggrieved assessee preferred an appeal to the learned CIT (A), who confirmed the order of the AO.

5. Being aggrieved by the order of the learned CIT (A), the assessee is in appeal before me.

6. The learned AR before me fairly conceded that the assessee is not eligible for deduction with respect to the interest income earned from the bank under the provisions of section 80P(2)(a)(i) of the Act. But, the learned AR before me made a small prayer that the interest cost incurred by the assessee against such interest income should be adjusted while calculating the amount of deduction available under the provisions of section 80P(2)(a)(i) of the Act.

7. On the other hand the learned DR vehemently supported the order of the authorities below.

8. I have heard the rival contentions of both the parties and perused the materials available on record. The provisions of section 80P(2)(a)(i) of the Act provides the deduction to a co-operative society engaged in the business of banking or providing credit facilities to its members. The provisions of the section are without any ambiguity. In other words, the income from the activity of financing from the members is only eligible for deduction under section 80P(2)(a)(i) of the Act. If there is any income arising to the co-operative society from the non-members that will not be subject to deduction under section 80P(2)(a)(i) of the Act. In holding so, I draw support and guidance from the judgment of the Hon'ble Gujarat High Court in the case of State Bank of India versus CIT reported in 72 Taxmann.com 64 wherein it was held as under:

The Income Tax Appellate Tribunal was also justified in holding that interest income of Rs.16,14,579/- and Rs.32,83,410/-respectively on deposits placed with State Bank of India was not exempt under section 80P(2)(a)(i) of the Income Tax Act, 1961.

8.1 In view of the above, it is only the interest derived from the credit facilities provided to its members which is deductible under section 80P(2)(a)(i) of the Act and the interest derived by depositing surplus funds with the nationalized/commercial bank i.e. Bank of Baroda is not being attributable to the business as envisaged under the provisions of the Act. Thus the same cannot be deducted under section 80P(2)(a)(i) of the Act. In view of the above, there remains no ambiguity that income received by the assessee for ₹ 4,52,905/- on the money deposited with the Bank of Baroda is not eligible for deduction under section 80P(2)(a)(i) of the Act. Before parting, the question arises whether gross amount of interest should be reduced from the claim made by the assessee for the deduction under section 80P(2)(a)(i) of the Act. In this regard I note that direct interest expenses if any incurred by the assessee against such interest income on the fixed deposits made with the nationalized bank should be considered for calculating the net income which is not eligible for deduction under the provisions of section 80P(2)(a)(i) of the Act. Thus, I hold that there is no infirmity in the order of the learned CIT (A), requiring any interference except the allowability of interest

expenses against the interest income. Hence, I uphold the same to the extent discussed above. Hence, the ground of appeal of the assessee is partly allowed.

9. In the result, the appeal filed by the assessee is **partly allowed**.

Order pronounced in the Court on 16/11/2022 at Ahmedabad.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

(True Copy)
Ahmedabad; Dated 16/11/2022
Manish