

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	615/PUN/2022	DCIT, Circle-8, Pune	Bhimashankar Sahakari Sakhar Karkhana Ltd., At Post Pargaon Avsari, Tal. Ambegaon, Dist. Pune – 412 406 PAN AAAAB0949G	2018-19
2	628/PUN/2022	ITO, Ward-1, Ahmednagar	Jyoti Sahakari Patsanstha Maryadit, 1, Near Sathe Putala, Main Road, Kopargaon, Ahmednagar 423 601 PAN : AAAAJ2459B	2018-19

Assessee(s) by                      None  
Revenue by                              Shri Keyur Patel, CIT-DR and  
    Shri Ramnath P. Murkude

Date of hearing                      20-12-2022  
Date of  
pronouncement                      21-12-2022

**आदेश / ORDER**

**PER R.S.SYAL, VP:**

These two appeals by the Revenue pertaining to different assessees relate to the assessment year 2018-19. Since a common issue is raised in these two appeals, we are, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

ITA No.615/PUN/2022 :

2. In this appeal, the Revenue is aggrieved by the grant of deduction u/s.80P of the Income-tax Act, 1961 (hereinafter also called 'the Act'). Briefly stated, the facts of the case, are that the assessee is a co-operative society, who filed return its declaring total income at Rs.32,53,300/-. During the course of assessment proceedings, the Assessing Officer (AO) observed that the assessee claimed deduction u/s.80P in respect of interest income and also dividend on investments with another cooperative society. The assessee's claim that such an amount of interest/dividend was eligible for deduction u/s.80P got jettisoned by the AO who refused deduction under this provision for a sum of Rs.6.03 crore. The Id. CIT(A) overturned the assessment order on this score. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal challenging the order passed by the Id. CIT(A).

ITA No.628/PUN/2022 :

3. In this appeal, the Revenue is aggrieved by the granting of deduction u/s.80P in respect of interest and dividend income on the funds invested in scheduled banks/financial institutions. The facts of this case are that the assessee, a co-operative society, filed its return declaring total income at Rs.3,94,980/-. Deduction was claimed u/s 80P of the Act in respect of interest income derived

from deposits with cooperative banks, post office, scheduled banks and dividend from mutual funds/SIP investments, which was denied by the AO. The Id. CIT(A) reversed the assessment order on this score by granting the deduction. Aggrieved thereby, the Revenue has approached the Tribunal.

4. We have heard the learned DR and gone through the material on record. There is no appearance from the side of the assesseees despite notice. We are, therefore, proceeding to this dispose of the appeals *ex parte qua* the assesseees.

5. The assesseees claimed deduction u/s 80P(2)(a)(i)/80P(2)(d) of the Act, which was denied by the AO but restored in the first appeal. Insofar as the allowability of deduction u/s.8P(2)(a)(i) is concerned, we find that the Pune Benches of the Tribunal in *Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016)* has 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.

6. Coming to the eligibility of deduction u/s.80P(2)(d) and after considering the language of the section, it is observed that though co-operative banks, other than primary agricultural credit society or a primary co-operative agricultural and rural development bank, are not eligible for deduction pursuant to insertion of section 80P(4) w.e.f. 1.4.2007, but this provision does not dent the otherwise eligibility u/s 80P(2)(d) of the Act of a co-operative society on interest income on investments/deposits parked with a co-operative bank, which is a registered co-operative society as per section 2(19)

of the Act, defining co-operative society to mean a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the time being in force. The assesseees are also Co-operative societies registered under the Act, thereby making them eligible for claim of the deduction. Similar view has been taken in several cases including *The Sesa Goa Employees Coop. Credit Society Ltd. Vs. ACIT (ITA No.203/PUN/2019)* vide order dated 16-11-2022.

7. In view of the fact that the Pune Benches of the Tribunal in series of decisions have held that the co-operative societies are entitled to deduction u/s.80P(2)(a)(i)/80P(2)(d) in respect of interest income, we hold that the impugned orders do not require any interference.

8. In the result, both the appeals are dismissed.

Order pronounced in the Open Court on 21<sup>st</sup> December, 2022.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

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

पुणे Pune; दिनांक Dated : 21<sup>st</sup> December, 2022  
*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A) concerned
4. The CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" /  
DR 'A', 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	20-12-2022	Sr.PS
2.	Draft placed before author	21-12-2022	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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