

**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	102/PUN/2020	Marathwada Krishi Vidyapeeth Karmachari Sahkari Patsanstha Ltd., Sahakar, Krishi Sarathi Colony, Basmath Raod, Parbhani-431401 PAN :AAAAM6906E	PCIT-1, Aurangabad	2014-15
2	304/PUN/2022	Rajhans Gramin Bigarsheti Co.op. Credit Society Ltd., At & Post Karanje, Tal. Baramati, Dist. Pune - 412306 PAN :AAAAR0265M	ITO, Ward-14(5), Pune	2017-18
3	305/PUN/2022	State Bank of India Employees Co.op. Credit Society Ltd., Pune Main Branch Campus, Dr. Ambedkar Road, Pune 411 001 PAN : AAAAS0886R	PCIT-4, Pune	2017-18
4	331/PUN/2022	Tuljaram Chaturchand Mahavidyalaya Sevakanchi Saha Patsanstha Maryadit, T.C. College Baramati, Taluka Baramati, Pune 413 102 PAN : AAHCS6334B	PCIT-4, Pune	2017-18
5	350/PUN/2022	Tuljabhavani Nagari Sahakari Patpedhi Ltd., Pragati, Plot No.9, Sector-19, New Panvel – 410 206 PAN: AAAAJ2329Q	PCIT-1, Thane	2017-18
6	357/PUN/2022	Shri Saraswati Sarvavyavasaik Nagari Sahkari Patsanstha Maryadit, Block No.18, N.G. Mill Society, Near Asara Bridge Hotgi Road, Solapur – 413 003 PAN: ABEFS3464P	PCIT-4, Pune	2017-18
7	373/PUN/2022	Shivkrupa Nagari Sahakari Pata Sanstha Ltd., Sutar Net, Near State Bank of India, Daund, Pune 413 801 PAN : AAEAS3869C	PCIT-4, Pune	2017-18

8	380/PUN/2022	Samata Nagari Sahakari Patsanstha Maryadit, Prasanna Residency, At & post Nira, Tal. Purandar, Dist. Pune – 412 102 PAN : AABAS5442E	ITO, Ward-14(5), Pune	2017-18
9	384/PUN/2022	Sahyadri Gramin Bigarsheti Sahakari Patsanstha Maryadit, Sabale Niwas, Morba Road, Mangaon – 402 104 PAN : AACAS9027J	PCIT-1, Thane	2017-18
10	399/PUN/2022	Sakal Press Kamgar Sahakari Pathapedi Limited, 595, Budhwar Peth, Pune 411 001 PAN : AAFFS1927E	PCIT-3, Pune	2017-18
11	400/PUN/2022	Shrinath Nagari Sahakari Patsanstha Maryadit, S.No.40, Vishal Heights, Subashnagar, Tingarenagar, Pune 411 015 PAN : AACAS3126Q	PCIT-4, Pune	2017-18
12	431/PUN/2022	Dhanashri Multi State Cooperative Credit Society Limited, Damaji Road, Murlidhar Chowk, Mangalwedha, Tal. Mangalwedha, Solapur 413 305 PAN : AABAD1879N	PCIT-4, Pune	2017-18
13	432/PUN/2022	Manorama Multi State Cooperative Credit Society Limited, Plot No.4, Manorama Complex, Kotnis Nagar, Bijapur Road, Solapur 413 004 PAN : AACAM5968L	PCIT-4, Pune	2017-18
14	448/PUN/2022	Shree Kedareshwar Nagari Sahakari Patsanstha Maryadit, Shop No.4, House No.1376, Near Somaji Bus Stop, Kondhawa Bk, Pune 411048 PAN : AACAS7903B	PCIT-4, Pune	2017-18
15	460/PUN/2022	Jaywant Multi State Credit Cooperative Society Limited, Sr.No.21/1, Sawant Corner, Pune-Mumbai Bypass, Katraj, Pune 411 046 PAN : AABAJ5245Q	PCIT-3, Pune	2017-18

16	492/PUN/2022	Bhimashankar SSK Ltd., A/P. Pargaon, Tal. Ambegaon, Dist. Pune 412 406 PAN : AAAAB0949G	National E- Assessment Centre, Delhi	2018-19
17	504/PUN/2022	Hari Ganga Cooperative Housing Society Limited, S.No.129, Hissa No.1/2, Plot No. 1 & 2, Yerwada, Pune 411 006 PAN : AAAAH3944D	PCIT-4, Pune	2017-18
18	522/PUN/2022	Janahit Nagari Sahakari Pathpedhi Limited, 2035, Acharya Atre Chowk, Camp, Pune 411 001 PAN : AAAAJ0175A	PCIT-4, Pune	2017-18

Assessee(s) by Shri Nikhil S. Pathak & Shri Ajinkya M. Vaishampayan
Shri Kishor B. Phadke, Shri Pramod.S. Shingte,
Shri Hemant C. Shah, Shri Abhay Avchat and
Shri M.R. Bhagwat

Revenue by Shri Keyur Patel, CIT-DR

Date of hearing 20-12-2022

Date of pronouncement 21-12-2022

आदेश / ORDER

PER BENCH:

All the above appeals have been preferred by different assessees in relation to the A.Yrs.2014-15, 2017-18 & 2018-19 agitating the passing of the order by the Id. Principal Commissioner of Income-tax (PCIT) u/s.263 of the Income-tax Act, 1961 holding that the grant of deduction u/s.80P by the Assessing Officer (AO) in respect of interest income earned from other credit cooperative societies or Nationalised banks led to the passing of erroneous

assessment orders prejudicial to the interest of the Revenue. Because of the commonness of the issue, we are proceeding to dispose of all the appeals by the consolidated order for the sake of convenience.

2. There is a delay in presenting the appeals of 237 days (ITA No. 102/PUN/2020), 04 days (ITA No. 431 & 432/PUN/2022), 36 days (ITA No.460/PUN/2022), 05 days (ITA No.504/PUN/2022) and 49 days (ITA No.522/PUN/2022). In some of the appeals, the respective assesseees have filed affidavits; whilst in others, *prima-facie*, the delay pertains to the covid-19 pandemic period. We are satisfied with the reasons so stated for the delay by the respective assesseees. Hence, the delay in filing the appeals is condoned by virtue of the affidavits and the judgment of the Hon'ble Supreme Court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314.

3. Further, there is no appearance from the side of the assesseees in ITA No.102/PUN/2020, ITA No.460/PUN/2022, ITA No.492/PUN/2022 and ITA No.522/PUN/2022 despite notice. We are, therefore, proceeding with these appeals *ex parte qua* the assessee after hearing the ld. DR.

4. Succinctly, the facts common in all these cases are that the assesses filed returns claiming deduction u/s.80P in respect of interest income which was allowed by the respective AOs. The ld. PCIT(s) invoked the jurisdiction u/s 263 of the Act and disputed the allowability of the claim of deduction u/s.80P(2)(a)(i) in some cases and under 80P(2)(d) in others, thereby holding the assessment orders to be erroneous and prejudicial to the interest of the Revenue. Aggrieved thereby, the assesseees have approached the Tribunal.

5. We have heard the rival submissions and gone through the relevant material on record. It is seen that all the cases are based on the ld. PCIT(s)' understanding that the allowing of the deduction by the AO(s) u/s 80P is contrary to law. Insofar as the allowability of deduction u/s.8P(2)(a)(i) is concerned, we find that the Pune 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. We thus hold that no exception can be taken to the granting of deduction on interest income by the AO u/s 80P(2)(a)(i) of the Act.

6. Coming to the other cases involving deduction u/s.80P(2)(d) of the Act, it is crystal clear from the language of the provision 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 assessee is also Co-operative society registered under the Act and hence qualify for the grant of the deduction. Similar view has been taken by the Pune Tribunal 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 foregoing, we hold that the impugned orders questioning the deduction u/s.80P(2)(a)(i)/80P(2)(d) in respect of interest income, cannot be sustained.

8. In the result, all the appeals are allowed.

Order pronounced in the Open Court on 21st December, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 21st 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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