

**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	278/PUN/2022	Ahilyadevi Nagari Path Sanstha Maryadit, Gujur Vasti, Near Dayanand College, Ravivar Peth, Solapur 413 003 Maharashtra PAN : AACAA5816F	PCIT-4, Pune	2017-18
2	279/PUN/2022	Bhavsar Nagri Sahakari Patsanstha Myd, 163, Somvar Peth, Solapur 413 005 Maharashtra PAN : AATB8704E	PCIT-4, Pune	2017-18

Assessee(s) by
Revenue by

Shri Girish Ladda
Shri Keyur Patel, CIT-DR

Date of hearing 22-12-2022
Date of pronouncement 22-12-2022

आदेश / ORDER

PER BENCH :

These appeals by two different assessees assail the passing of the revisionary orders by the Id. Principal Commissioner of Income-tax u/s.263 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in respect of assessment year 2017-18. 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.278/PUN/2022 :

2. 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.1.30 lakh. During the course of assessment proceedings, the Assessing Officer (AO) observed that the assessee claimed deduction u/s.80P in respect of interest income - both from nationalized banks and cooperative banks. The deduction was allowed. However, the Id. PCIT u/s.263 disputed the allowability of deduction in respect of such interest income and declared the assessment order to be erroneous and prejudicial to the interest of the revenue on this score. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

ITA No.279/PUN/2022 :

3. The facts of this case are that the assessee, a co-operative society, filed its return declaring total income at Rs.14,400/- after claiming deduction u/s 80P of the Act amounting to Rs.64,44,881/- in respect of interest from cooperative banks. The AO allowed the deduction. The Id. PCIT disputed the action of the AO on this count

by declaring the assessment order to be erroneous and prejudicial to the interest of the revenue.

4. We have heard both the sides and gone through the material on record. It is seen that the assessee claimed deduction u/s.80P in respect of interest from cooperative banks and nationalized banks which got allowed by the AO, but controverted by the Id. PCIT in the revisionary proceedings. It is seen that the extant cases are based on the Id. 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.80P(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 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.

5. Coming to the 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 assesseees are also Co-operative societies 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).

6. In view of the foregoing, we hold that the impugned orders questioning the grant of deduction u/s.80P(2)(a)(i)/80P(2)(d) in respect of interest income, cannot be sustained.

7. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 22nd December, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 22nd 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 Pr.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	22-12-2022	Sr.PS
2.	Draft placed before author	22-12-2022	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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