

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.119/Ind/2022
Assessment Year 2017-18

M.P. Police Sakh Sahkari Sanstha Maryadit, Ujjain	Vs.	Pr. CIT-1 Indore
(Appellant / Assessee)		(Respondent / Revenue)
PAN No. AABAM 5551 C		
Assessee by	Shri Milind Wadhvani, CA	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	17.11.2022	
Date of Pronouncement	20.12.2022	

ORDER

Per B.M. Biyani AM:

Feeling aggrieved by revision-order dated 19.03.2022 passed by Ld. Principal Commissioner of Income Tax [**Ld. PCIT**] u/s 263 of the Income-Tax Act 1961 [**the Act**], which in turn arises out of assessment-order dated 26.11.2019 passed by Ld. ITO, Ward-2(3), Ujjain [**Ld. AO**] for assessment year [**AY**] 2017-18, the assessee has filed this appeal.

2. Heard the learned Representatives of both sides and case-records perused.

3. The facts leading to present appeal before us are such that the assessee is a co-operative society. It filed return of income of the relevant assessment-year after claiming deduction u/s 80P of Rs.

41,73,300/-. The Ld. AO subjected assessee's case to scrutiny-assessment and being satisfied, allowed deduction as claimed by assessee. Subsequently, the Ld. PCIT examined the assessment-order and found that the assessee had earned interest of Rs. 13,70,890/- from fixed deposits with banks which is not eligible for deduction u/s 80P. Thus, the Ld. PCIT framed a view that the Ld. AO had wrongly allowed deduction u/s 80P *qua* the impugned interest income of Rs. 13,70,890/-, which has rendered the assessment-order as erroneous-cum-prejudicial to the interest of revenue. Holding so, the Ld. PCIT took revisionary action u/s 263 of the act whereby the assessment-order passed by Ld. AO was set aside with a direction to re-examine the issue of deduction and frame assessment de novo. Aggrieved by revision-order, the assessee has come in present appeal before us.

4. The Ld. AR appearing for the assessee straightaway submitted that the issue of allowability of deduction u/s 80P *qua* the impugned interest income is squarely covered in assessee's favour by the order passed by Hon'ble Co-ordinate Bench of ITAT, Indore in **ITA Nos. 422/Ind/2017 & 649/Ind/2019, M.P. Police Sakh Sahkarita Maryadit, Indore Vs. ITO-4(5) dated 17.12.2019**, a copy placed before us. The relevant paragraph of the order reads thus:

“9. In the present case, the undisputed fact is that the assessee society is required to deposit 25% of its profit as mandated by section 43(2) of the M.P./Chattisgarh Societies Act, 1960. Hence, the assessee is under legal obligation to keep 25% of its profits as reserves. Any interest accrued there on would certainly, in our considered view partake character of business income of the assessee. Hence, it would be eligible for deduction. Therefore, the A.O. is directed to allow deduction on the interest earned out of amount so reserved by the assessee i.e. 25% of profit transferred to reserves.”

5. The Ld. DR representing the revenue, with all his fairness, has not raised any serious objection.

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6. We do not find any reason to deviate from the view taken by Hon'ble Co-ordinate Bench in the absence of any change in facts or law. Respectfully relying upon the same, we hold that the Ld. AO was correct in giving deduction u/s 80P to the assessee *qua* the impugned interest income. That also brings us to conclude that the assessment-order passed by Ld. AO is neither erroneous non prejudicial to the interest of revenue and therefore the Ld. PCIT was not justified in invoking the revisionary-action u/s 263. Being so, we quash the revision-order passed by Ld. PCIT and restore the original assessment-order passed by Ld. AO.

7. In the result, assessee's appeal is allowed.

Order pronounced as per Rule 34 of ITAT Rules, 1963 on 20/12/2022.

Sd/-
(CHNADRA MOHAN GARG)
JUDICIAL MEMBER
Indore; Dated 20/12/2022
S. K. Sinha, Sr. PS

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीयप्रतिनिधि, / DR, ITAT, Indore
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Sr. Private Secretary)
ITAT, Indore

1.	Date of taking dictation	13.12.22
2.	Date of typing & draft order placed before the Dictating Member	13.12.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	13.12.22
4.	Date on which the approved draft is placed before other Member	13.12.22
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	