

IN THE INCOME TAX APPELLATE TRIBUNAL  
PANAJI 'SMC' BENCH : PANAJI  
(THROUGH VIRTUAL HEARING)  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
ITA.No.14/PAN/2019  
Assessment Year 2012-2013

Bharat Co-operative Credit Society Limited, Ganapati Galli, A/p Harugeri Tal: Raibag, Dist. Belagavi. Karnataka. PIN 591 220 PAN AABTB5263D	vs.,	The Income Tax Officer, Ward-2(2), Feroj Khimjibhai Complex, Opp. Civil Hospital, Dr. Ambedkar Road, Belagavi. Karnataka. PIN 590 001.
(Appellant)		(Respondent)

For Assessee :	Shri Chetan Chougule, C.A.
For Revenue :	Shri N. Shrikant

Date of Hearing :	16.01.2023
Date of Pronouncement :	24.01.2023

**ORDER**

This assessee's appeal for assessment year 2012-13, arises against the CIT(A), Hubballi's order dated 28.11.2018, passed in case ITA.No.CIT(A), BGV/10247/2017-18, in proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *"Because, the learned Commissioner of Income Tax (Appeals) erred in law as well as on facts while disallowing the deduction claimed under section 80P(2)(a)(i) of the Income Tax Act, 1961 and concluding that the Assessee is a Primary Co-operative Bank within the meaning of Part V of the Banking Regulations Act, 1949.*

2. *That the Authorities failed to appreciate that the assessee is not governed by Reserve Bank of India regulation and The Banking Regulation Act, 1949, whereas it is governed by The Karnataka Souharda Sahakari Act, 1997.*
3. *Because, the learned lower authorities have erred in denying the deduction claimed under section 80P(2)(a)(i) of Income Tax Act, 1961 by adjudicating the Assessee as cooperative bank by applying section 80P(4) instead of treating it as cooperative credit society.*
4. *The assessee craves leave to add / alter any of the grounds of appeal before or at the time of hearing.”*

3. Suffice to say, the sole issue between the parties herein is that of sec.80P(2) deduction wherein the learned lower authorities hold the assessee to be a primary cooperative bank only than a cooperative credit society eligible for the same. It is noted in this factual backdrop hon'ble apex court's recent landmark decision in Mavilayi Service Co-operative Bank Ltd. vs. CIT [2021] 431 ITR 1 (SC) has already rejected the very distinction thereby deciding the issue in assessee's favour and against the department. This is further coupled with the fact that hon'ble jurisdictional high court in Government of India Ministry of Finance v. Karnataka State Souharda Federal Co-operative Ltd. [2022] 134 taxmann.com 170 (Karnataka) has treated a souharda cooperative credit society as an

eligible assessee u/s.2(19) of the Act. Faced with this situation, I accept the assessee's instant sole substantive ground in very terms.

4. Learned DR at this stage submitted that the assessee in fact has also derived interest income from deposits made in various banks. This latter limb of interest income derived from cooperative banks also is found to have been adjudicated in assessee's favour as per this tribunal's recent coordinate bench's order in case of Shri Chandraprabhu Urban Co-operative Credit Society Ltd., vs. ITO ITA.Nos.61 & 62/PAN/2018 decided on 10.05.2022 reading as follows :

*"4. The appellant through various grounds of appeal as well as the additional grounds of appeal raised the solitary issue in the present appeal is that the eligibility of exemption of income received from BDCC Bank and other banks under the provisions of section 80P(2)(d) of the Income Tax Act, 1961 ('the Act').*

*1. Briefly, the facts of the case are as under :-*

*The appellant is a co-operative bank formed with the object of providing credit facilities to its members. The appellant filed the return of income for the assessment 2012-13 on 30.09.2012 declaring total income of Rs.Nil. Against the said return of income, the assessment was completed by the Income Tax Officer, Nipani ('the Assessing Officer') vide order dated 20.11.2014 passed u/s 143(3) of the Act at a total*

income of Rs.45,43,916/-. While doing so, the Assessing Officer had denied the exemption u/s 80P(2)(a)(i) by holding that the appellant society is a co-operative bank rejecting the contention of the appellant that it is not a co-operative bank but merely a co-operative society as it does not enjoy any banking license nor granted any license to do the banking business by the Reserve Bank of India. It is only engaged in accepting the deposits from its members and lending to its members. The Assessing Officer also made addition of Rs.1,26,610/- under the provisions of section 40(a)(ia) of the Act.

2. Being aggrieved by the above assessment order, an appeal was filed before the ld. CIT(A), who vide impugned order held that the appellant is not a co-operative bank but a mere co-operative society carrying on the business of providing credit facilities to its members. The ld. CIT(A) also held that the appellant is eligible for deduction u/s 80P(2)(a)(i) of the Act.

As regards to the interest received from other co-operative bank or schedule private bank, the ld. CIT(A) held that the appellant society is eligible for deduction u/s 80P(2)(d) in respect of interest received from co-operative societies on short term deposits, SB A/c, but not interest on long term investment or deposits for period more than one year. The ld. CIT(A) also directed the Assessing Officer to delete the addition u/s 40(a)(ia) by holding that the appellant society is not liable to

*deduct tax at source.*

3. *Being aggrieved by the decision of the ld. CIT(A) that the interest earned on long term investments or deposits for period more than one year to be treated as income from other sources and not eligible for deduction u/s 80P(2)(a)(i) or section 80P(2)(d) of the Act, the appellant is in appeal before us.*

4. *It is submitted on behalf of the appellant that the provisions of income-tax does not provide for any distinction between long term and short term investments that any income received by the co-operative society from another co-operative society is eligible for deduction u/s 80P(2)(d) of the Act.*

5. *On the other hand, ld. Sr. DR placed reliance on the order of the ld. CIT(A).*

6. *We heard the rival submissions and perused the material on record. The solitary issue in the present appeal relates to the eligibility of exemption of income received from BDCC Bank and other banks under the provisions of section 80P(2)(d) of the Act. The ld. CIT(A) was of the opinion that the interest earned on long term investments i.e. deposits for period of more than one year received from BDCC Bank and other banks is not eligible for exemption u/s 80P(2)(d) of the Act. The ld. CIT(A) gave a specific finding vide sub-para (e) of para 11 of the impugned order that the appellant being a co-operative society is eligible for deduction u/s 80P(2)(d) on interest received*

*from another co-operative society.*

*Similarly, the interest received from SB accounts or other bank or schedule bank, the short term investments is treated as business income of the assessee held to be eligible for deduction u/s 80P(2)(a)(i) of the Act. The Department is not in appeal before us on the above findings of the ld. CIT(A).*

*Whereas, the appellant is only challenging the finding given in sub-para (e) of para 11 of the impugned order that interest earned on long term investments cannot be treated as business income. We find that the section 80P does not make a distinction between the long term investments and short term investments, the only requirement under the provisions of section 80P(2)(d) is that an interest income or dividend income should be earned by a co-operative society from another co-operative society. The provisions of section 80P does not provide for any distinction between income earned on long term and short term investments. Thus, the ld. CIT(A) clearly fell in error in drawing such distinction not supported by any statutory provisions in the Act. Therefore, the findings of the ld. CIT(A) contained in sub-para (e) of para 11 are set-aside. Therefore, the grounds of appeal filed by the assessee stands allowed.*

11. *In the result, the appeal filed by the assessee in ITA No.61/PAN/2018 for the assessment year 2012-13 stands allowed.”*

6. I, therefore, treat the assessee is eligible for the impugned sec.80P deduction in very terms.

7. No other ground or argument has been pressed before me during the course of hearing.

8. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 24.01.2023.

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 24<sup>th</sup> January, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Panaji 'SMC' Bench, Panaji
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,  
Pune.