

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI 'SMC' BENCH : PANAJI
(THROUGH VIRTUAL HEARING)
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
ITA.No.50/PAN/2020
Assessment Year 2016-17

Pai Bhavan Coop Housing Society Limited, F-19, Block-4, Pai Bhavan Cooperative Housing Society, Caranzalim, Goa. PIN – 403 002 PAN AABAP8490M (Appellant)	vs.,	The Income Tax Officer, Ward-1(4), Panaji Goa. Goa – 403 001. (Respondent)
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For Assessee :	Shri Eesha Dukle
For Revenue :	Shri N. Shrikanth

Date of Hearing :	16.01.2023
Date of Pronouncement :	25.01.2023

ORDER

This assessee's appeal for assessment year 2016-17, arises against the CIT(A) Panaji-1, Panaji's order dated 28.01.2020, passed in case ITA.No.CIT(A), PNJ-1/10158/2018-19, in proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law and on facts in rejecting its sec.80P(2) deduction claim of Rs.3,06,300/- representing interest derived from cooperative banks, it emerges that the same no more *res integra* in light of the tribunal's latest coordinate bench's order in

ITA.No.615/PUN./2022 DCIT vs. Bhimashankar Sahakari Sakhar Karkhana Ltd. Pune dated 21.12.2022 reading as under :

“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 ld. 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 ld. 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 ld. 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 assessee despite notice. We are, therefore, proceeding to this dispose of the appeals ex parte qua the assessee.

5. The assessee 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 assessees 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.”

3. The Revenue is fair enough in not pinpointing any distinction on facts or law so far as the instant issue of sec.80P deduction is concerned. The assessee’s sole substantive ground hereinabove succeeds therefore. Ordered accordingly.

4. This assessee’s appeal is allowed in above terms.

Order pronounced in the open court on 25.01.2023.

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 25th 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.