

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Dr. Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 41/KOL/2023
Assessment Year: 2015-2016**

***The Rifle Factory Cooperative Society
Limited,.....Appellant
Nawabganj, Ishapore,
24-Parganas (North)-743144,
West Bengal
[PAN: AAAAT6436E]***

-Vs.-

***Assistant Commissioner of Income Tax,....Respondent
Circle-49(1), Kolkata,
Ultadanga, Manicktala,
Civic Centre, Kolkata-700054***

Appearances by:

*Shri Somak Basu, A.R.,, appeared on behalf of the
assessee*

*Shri Vijay Kumar, Addl. CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : April 10, 2023

Date of pronouncing the order : April 11, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2015-16 is directed against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 18.11.2022, which is arising out of the order under section 143(3) of

the Act on 08.12.2017 framed by Id. Assessing Officer, Kolkata.

2. Though the assessee has raised as many as 14 grounds of appeal, but the only grievance is that the Id. CIT(Appeals) erred in not treating the interest income of Rs.9,06,730/- received from Fixed Deposit as part of the business activity carried out by the assessee.

3. Id. Counsel for the assessee vehemently argued referring to the written submissions filed before the lower authorities and before us and also referred to the plethora of decisions and referred to the paper book containing 60 pages filed on 05.04.2023.

4. On the other hand, Id. Departmental Representative vehemently argued supporting the order of lower authorities.

5. We have heard the rival contentions and perused the relevant record placed before us. We notice that the assessee is a Cooperative Society engaged in the business of providing credit facilities to its members. Nil income declared in the return filed for A.Y. 2015-16 on 30.09.2015. During the course of assessment proceedings, assessee carried out the matter after the case being selected for scrutiny under CASS followed by serving of notices under sections 143(2) and 142(1) of the Act. The Id. Assessing Officer noticed that the assessee has received interest income of

Rs.9,06,730/- from Fixed Deposit held with Cooperative Bank.

We notice that the assessee is a Cooperative Society and is governed by West Bengal Cooperative Societies Act, 2006 and under Chapter (VII) of this Act under the heading "Properties and Funds of Cooperative Societies. Sections 80, 81 & 82 read as under:-

"80. There shall be a fund to be called the Cooperative Education Fund to be administered by such authority and in such manner as may be prescribed. Every Cooperative Society shall, after the close of each Cooperative Year contribute to the Cooperative Education Fund such portion of its net profit in any Cooperative year as may be prescribed.

81. Every Cooperative Society shall create a bad debt fund by transferring of not less than fifteen per cent, of its net profit in a Cooperative year and shall utilize it in any business if it has no outside liability in the form of bad debt certified by the audit officer or in such other manner as may be prescribed.

82. Every Cooperative Society shall transfer, in every cooperative year, not less than ten per cent, of its net profit to a reserve fund:

Provided that the Reserve Fund shall be invested in a Government Saving Bank including Nationalised Bank, Cooperative Banks and Regional Rural Banks or in any security specified in section 20 of the Indian Trust Act, 1882 or in the business of the Cooperative Society in such manner as may be prescribed.

6. From perusal of the above sections of West Bengal Cooperative Societies Act, we notice that the assessee-society is

statutorily required to transfer not less than 10% of its net profit to a Reserve Fund and the same shall be invested in a Government Saving Bank including Nationalized Bank, Cooperative Banks and Regional Rural Banks or in any security specified in Section 20 of the Indian Trust Act, 1882 or in the business of the Cooperative Society in such manner as may be prescribed.

7. Now the claim of the assessee is that it apportion 10% of its Net Profit to a Reserve Fund and deposit it in the form of Fixed Deposit in the Cooperative Bank. Now this action of the assessee is purely based on the Rules and Regulations provided under the West Bengal Cooperative Societies Act, 2006, which governs such Cooperative Society. Further the assessee in order to carry out its business activities of providing credit facilities to its members has to adhere to the Rules and Regulations of the West Bengal Cooperative Societies Act, 2006. The alleged interest income, which is appearing in the audited Profit & Loss Account at page 18 of the paper book, is earned from investments (FDR's) and such investments are appearing under the head "Reserve Fund Investment" in the audited balance-sheet placed at page 10 of the paper book. These facts stand uncontroverted by the ld. D.R. and we being satisfied that the alleged interest income is from the Fixed Deposits, which were made by the assessee in the course of business and in order to comply the statutory requirements of the West Bengal Cooperative Societies Act, 2006. Therefore, the same should be treated as part of the business income and is

eligible for deduction under section 80P(2)(a)(i) of the Act and should not be treated as income from other sources. Thus the effective ground raised by the assessee is allowed and the ld. Assessing Officer is directed to give the deduction under section 80P of the Act on the alleged interest income.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 11th April, 2023.

Sd/-

Sd/-

(Sonjoy Sarma)
Judicial Member

(Manish Borad)
Accountant Member

Kolkata, the 11th day of April, 2023

***Copies to :(1) The Rifle Factory Cooperative Society Limited,
Nawabganj, Ishapore,
24-Parganas (North)-743144, West Bengal***

***(2) Assistant Commissioner of Income Tax,
Circle-49(1), Kolkata,
Ultadanga, Manicktala,
Civic Centre, Kolkata-700054***

***(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Delhi;***

4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.