

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 433/Srt/2022 (Assessment Year 2019-20)

(Physical hearing)

Mohani Timbarva Seva Sahakari Mandali Ltd., At Post Mohani, Tal-Palsana, Dist- Choryasi, City- Surat-394305. PAN No. AASFM 2206 Q	Vs.	D.C.I.T., Circle-2(1)(1), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Ms. Dharti Jariwala, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of hearing	29/03/2023
Date of pronouncement	25/04/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre (NFAC), Delhi/ learned Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 26/10/2022 for the Assessment Year (AY) 2019-20. Though, the assessee has raised multiple grounds of appeal which is like a narration of facts, however, on perusal of grounds of appeal, I am of the view that the sole ground of appeal relates to "*disallowance of deduction under Section 80(P)(2)(a)(iv) and 80(P)(2)(d) of the Income Tax Act, 1961 (In short, the Act) of Rs. 7,18,939/- and 96,371/- respectively.*"
2. Brief facts of the case are that the assessee is a cooperative society, engaged in the business of providing credit facility to its members. The

assessee filed return of income for A.Y. 2019-20 on 01/11/2019. The return was processed under Section 143(1) by the Central Processing Centre (CPC), Bangalore vide intimation dated 01/05/2020. The CPC/Assessing Officer while processing the return of income, disallowed/not allowed various deductions claimed under Section 80P of the Act. Consequent upon, such disallowance under section 80P, the assessee filed application under Section 154 of the Act on 09/06/2020 and again on 07/07/2020 for seeking rectification of order/ intimation dated 01/05/2020. The rectification sought in application under Section 154 was not allowed by the CPC vide their intimation dated 17/08/2020. In the rectification, the assessee claimed deduction of Rs. 7,18,939/- under Section 80(P)(2)(a)(iv) and deduction of Rs. 96,371/- under Section 80(P)(2)(d) of the Act. The CPC while rejecting the application of assessee, initiated that the assessee has not correctly filled Schedule part A-P&L/BP/PARTBT1/ CYLA/DEP/DPM/ DOA/ Nature of Business/ PART-A-01/Sch. OS/SI/ BFLA.

3. Aggrieved by the order of CPC, on rejecting the application under section 154, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed its statement of fact and contended that they are eligible for deduction under Section 80P of the Act. The Id. CIT(A) after considering the submissions of assessee held that the deduction under Section 80P was originally denied in the intimation under Section 143(1)

of the Act and not in the order under Section 154 of the Act. Rectification order dated 17/08/2020 is to be read as a forming part of original intimation dated 24/06/2020 and not independently. Further aggrieved, the assessee has filed the present appeal before this Tribunal.

4. I have heard the submissions of the learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Id. Sr. DR) for the revenue. The Id. AR of the assessee submits that the assessee is a cooperative society and entitled for deduction under Section 80(P)(2)(d) of Rs. 96,371/- which was received on account of dividend or interest income from other cooperative societies. The assessee is also entitled for deduction under Section 80(P)(2)(a)(iv) of Rs. 7,18,939/- received on various head from its members. The lower authorities disallowed both the reliefs without considering and verifying the claim of assessee. The Id AR for the assessee submits that she may be allowed appropriate relief.
5. On the other hand, the Id. Sr. DR for the revenue supported the orders of lower authorities. The Id. Sr. DR for the revenue submits that the lower authorities have not verified the claim of assessee on both the issues of disallowance, therefore, the matter may be restored back to the file of Assessing Officer with specific direction to examine the claim of assessee.
6. I have considered the submissions of both the parties and perused the orders of the lower authorities carefully. I find that in the computation of

income the assessee has claimed interest and dividend income of Rs. 96,371/- earned from other cooperative societies. This component of income is allowable for deduction under section 80P(2)(d) of the Act and this issue is covered by a series of decisions of Division Bench of this Tribunal as well as by the decision of Hon'ble Jurisdictional High Court. Therefore, the Assessing Officer is directed to verify the interest and dividend income if earned from cooperative society, the assessee be allowed full relief to the assessee.

7. So far as remaining disallowance under Section 80(P)(2)(a)(iv) of the Act for Rs. 7,18,939/-, complete bifurcation is not discernable from the various documents filed by the Id. AR of the assessee, though, the assessee in its computation of income has mentioned the figure, therefore, this issue is also restored back to the file of Assessing Officer to verify the fact and pass the order in accordance with law. The assessee is also directed to furnish complete details of such deduction with its bifurcations. Needless to direct that before passing the order, the Assessing Officer shall grant reasonable and fair opportunity of hearing to the assessee. The assessee is also directed to provide complete details and evidences on this issue to the Assessing officer. Accordingly, the grounds raised by the assessee in this appeal is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purpose only.

Order announced in open court on 25th April 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 25/04/2023

**Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat