

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.487/PUN/2023

निर्धारण वर्ष / Assessment Year : 2018-19

Shri Bhagwant Sahakari Nagari Patsanstha Maryadit Barshi 2632, Ainapur Maruti Road, Rui Oal Barshi, Solapur – 413 401 Maharashtra PAN : AABAS0993A	Vs.	ITO, Ward-2(3), Solapur
Appellant		Respondent

Assessee by : Shri Piyush Bafna
Revenue by : Shri Suresh Gaikwad

Date of hearing : 18-05-2023
Date of pronouncement : 19-05-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order dated 17-03-2023 passed by the CIT(A) in National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2018-19.

2. The only issue raised in this appeal is against the denial of deduction u/s.80P of the Act in relation to the interest income earned from Cooperative banks and also Nationalised banks.

3. Briefly stated, the facts of the case, are that the assessee society claimed deduction u/s.80P on net interest income of Rs.25,84,235/- after reducing the expenses from the gross amount of interest earned from banks at Rs.70,26,932/-. The Assessing Officer (AO) denied the deduction which was countenanced in the first appeal.

4. I have heard both the sides and gone through the relevant material on record. It is seen that the question is of granting deduction u/s 80P of the Act on interest income earned from various cooperative banks as well as Nationalised Banks. The extant issue is no more *res integra* in view of the catena of decisions delivered by the Pune Benches. The Pune Bench in *Rena Sahakari Sakhar Karkhana Ltd. Vs. Pr.CIT (ITA No.1249/PUN/2018)* has held, vide its order dated 07-01-2022, 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 payer of interest is also a Co-operative society registered under the Cooperative Societies Act. Respectfully following the decision of the Division Bench, I overturn the impugned order and direct to grant deduction u/s.80P(2)(d) of the Act on the amount of interest earned from various cooperative banks.

5. As far as the allowability of deduction u/s.8P(2)(a)(i) on the interest income earned from the deposits kept with Nationalized banks is concerned, I find the Pune Benches 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. Respectfully following the precedent, the impugned order is overturned and the interest income earned from the deposits kept with nationalised bank is also allowed as deduction u/s.80P(2)(a)(i) of the Act.

6. In the result, the appeal is allowed.

Order pronounced in the Open Court on 19th May, 2023.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 19th May, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	18-05-2023	Sr.PS
2.	Draft placed before author	19-05-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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