

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.698/PUN/2023  
निर्धारण वर्ष / Assessment Year : 2017-18

Yeshwantrao Chavan GBS, Near Post Office Belhe, At and Post Belhe, Pune, Tal. Junnar- 412410. PAN : AAAAAA0697A	Vs.	ITO, Ward-10(5), Pune.
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Rajesh Gawali

Date of hearing : 20.06.2023  
Date of pronouncement : 10.07.2023

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 01.03.2023 for the assessment year 2017-18.

2. Briefly, the facts of the case are that the appellant is a cooperative society registered under the provisions of Maharashtra Co-operative Societies Act, 1960. It is engaged in the business of accepting deposits from its members and providing credit facilities

to its members. The Return of Income for the assessment year 2017-18 was filed on 23.10.2017 disclosing Rs.Nil income after claiming deduction of Rs.20,44,610/- under the provisions of section 80P of the Income Tax Act, 1961 ('the Act'). Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-10(5), Pune ('the Assessing Officer') vide order dated 02.12.2019 passed u/s 143(3) of the Act at a total income of Rs.20,44,610/-. While doing so, the Assessing Officer denied the exemption u/s 80P(2)(a)(i) as well as section 80P(2)(d) of the Act on the ground that the interest income earned out of surplus money deposited with the cooperative banks does not qualify for deduction u/s 80P of the Act and also denied the exemption u/s 80P(2)(a)(i) considering the appellant society is cooperative bank.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the Assessing Officer.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. It is submitted before me that the issue is decided in favour of the assessee by placing reliance on the several decisions of the

Tribunal as well as the decision of the Co-ordinate Bench of this Tribunal in the case of Ichalkaranji Vyapari Sahakari Patsanstha Ltd. vs. ITO in ITA No.478/PUN/2023 for A.Y. 2020-21 dated 07.06.2023.

6. On the other hand, ld. Sr. DR placing reliance on the orders of the lower authorities submits that no interference is called for.

7. I heard the rival submissions and perused the material on record. The issue in the present appeal relates to the eligibility of the assessee for exemption u/s 80P(2)(a)(i) or u/s 80P(2)(d) of the Act. It is an admitted fact that the appellant is a cooperative society engaged in the business of providing credit facilities to its members and accepting deposits from its members. It does not enjoy any license to carry on the business from Reserve Bank of India. Therefore, as held by the Hon'ble Supreme Court in the case of PCIT vs. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., 454 ITR 117 (SC) that the assessee is eligible for deduction u/s 80P(2)(a)(i) of the Act. Reliance in this regard can also be placed on the decision of the Hon'ble Bombay High Court in the case of

PCIT vs. Quepem Urban Co-operative Credit Society Ltd., 438 ITR 631 (Bom.).

8. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(d) in respect of interest income earned by a cooperative society from the cooperative bank. There is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and

securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann.com 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR 371 took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s 80P(2)(a)(i) of the Act. Similar view has been taken by the Hon'ble Calcutta High Court in the case of PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta) and the Hon'ble Madras High Court in the case of Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras). The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Respectfully following

the decision of the Coordinate Bench of the Tribunal, I am of the considered opinion that the interest income earned on fixed deposits with cooperative bank/scheduled bank partakes character of the business income, which is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, we direct the Assessing Officer to delete the addition of Rs.20,44,610/- by allowing the exemption u/s 80P(2)(a)(i) and section 80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

9. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 10<sup>th</sup> day of July, 2023.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> July, 2023.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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