

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.3034/Del/2019
(Assessment Year : 2013-14)

Capital Co-operative Thrift & Credit Society Ltd. GD Block, Pitampura, New Delhi – 110034 PAN No. AAALC 0139 N (APPELLANT)	Vs.	ITO Ward – 40(5) New Delhi (RESPONDENT)
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Assessee by	-None-
Revenue by	Shri Om Prakash, Sr. D.R.

Date of hearing:	08.06.2023
Date of Pronouncement:	.09.2023

PER PRADIP KUMAR KEDIA, AM :

The captioned appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals) – 14, New Delhi ('CIT(A)' in short) dated 29.01.2019 arising from the assessment order dated 26.02.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning Assessment Year 2013-14.

2. As per the grounds of appeal, the assessee society has challenged denial of deduction under Section 80P of the Act on the interest income earned from deposits placed with the bank.

3. Briefly stated, the assessee is a Co-operative Society registered under Delhi Co-operative Societies Act and is engaged in the activity of thrift and providing credit to the members of the society. The assessee claims to receive deposits from its members in the

shape of compulsory deposits, fixed deposits and other deposits and lend the same to its members at a certain rate of interest. However, the surplus available in the course of carrying such credit activities, are kept with the Banks in the Fixed Deposits. The interests earned on Fixed Deposits placed with the Banks (other than banks in the nature of Co-op. Society) are claimed to be exempt under Section 80P of the Act. Consequently, assessee has claimed deduction of Rs.28,70,118/- earned by way of interest income from such Banks as exempt under Section 80P of the Act.

4. The Assessing Officer in the course of assessment under Section 143(3) of the Act referred to the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society vs. ITO 322 ITR 283 (Supreme Court) and denied the exemption claimed under Section 80P of the Act. The Assessing Officer observed that the interest income earned from funds lent to other members are exempt under Section 80P(2)(a) whereas the interest earned from Fixed Deposits kept with Nationalized Bank are not covered for exemption under any clauses of Sub-Section (2) to Section 80P of the Act. The interest income earned from Bank was thus assessed as chargeable to taxation.

5. Aggrieved, the assessee preferred appeal before the CIT(A), however, CIT(A) declined any relief.

6. Further aggrieved, the assessee preferred appeal before the Tribunal.

7. We have heard the rival submissions on the issue. The deduction under Section 80P of the Act on interest income earned from deposits placed with the Banks, other than Banks in the nature of Co-op. Society is under question. We notice that the issue is squarely covered against the assessee by the judgment of the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. vs. CIT (2014) 90 CCH 0075 Delhi High Court. The Hon'ble Delhi High Court observed that Section 80P of the Act provides partial exemption, restricted to the specified "earning" or "incomes" in sub-section (2), and not the entire income. A reference was made to Totgars Co-operative

Sale Society (supra) and observed that the interest income earned from surplus fund kept with Banks, would not qualify for deduction as it was assessable under the head "income from other sources". It was further observed that interest earned from investing surplus funds with Banks would fall under Section 56 of the Act and would be taxable under the head income from other sources and thus would be taxable under Section 2(24) of the Act.

8. In the light of the judgment of Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. (supra), we do not see any merit in the plea of the assessee for claim of deduction. However, we notice that there is no discussion or finding on allowability of expenditure under Section 57 of the Act incurred in relation to earning of interest taxable income under Section 56 of the Act. Hence, we consider it expedient to remit the matter back to the file of AO for re-determination of taxable income for giving appropriate allowances towards expenditure connected to the earning of interest income in accordance with law.

9. At this juncture, we may also observe that the assessee society would be entitled to general relief of Rs.50,000/- provided under Section 80P(2)(c)(ii) of the Act and out of the income assessed under the head 'business income' .

10. In the result, appeal of assessee is partly allowed.

Order was pronounced in the open court on 11.09.2023

sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Date:- .09.2023