

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI – VIRTUAL COURT

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	92/PAN/2023	M/s. Ravikiran Co-operative Credit Society Limited, Belgundi, Dist.: Belagavi- 591108 PAN : AAAAR0468C	ITO, Ward-3, Belagavi	2017-18
2	93/PAN/2023	M/s. Ravikiran Co-operative Credit Society Limited, Belgundi, Dist.: Belagavi- 591108 PAN : AAAAR0468C	National E-assessment Centre, Delhi	2018-19
3	94/PAN/2023	M/s. Ravikiran Co-operative Credit Society Limited, Belgundi, Dist.: Belagavi- 591108 PAN : AAAAR0468C	PCIT, Hubli	2018-19

Assessee by : None
Revenue by : Shri Prabhakar Anand DJ

Date of hearing : 04.09.2023
Date of pronouncement : 08.09.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the appeals filed by the assessee. The appeals in
ITA No.92 & 93/PAN/2023 are directed against the separate orders

of the National Faceless Appeal Centre, Delhi [‘NFAC’] dated 29.03.2023 for the assessment years 2017-18 and 2018-19 respectively. The appeal in ITA No.94/PAN/2023 is directed against the order of Id. Pr. Commissioner of Income Tax, Hubli [‘PCIT’] dated 15.03.2023 for the assessment year 2018-19.

2. Since the identical facts and common issues are involved in all the above captioned three appeals of the assessee, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the appeal of the assessee in ITA No.92/PAN/2023 for the assessment year 2017-18 are stated herein.

ITA No.92/PAN/2023, A.Y. 2017-18 :

4. Briefly, the facts of the case are that the appellant is a Co-operative Credit Society engaged in the business of accepting deposits from the members and providing credit facilities to its members. The Return of Income for the assessment year 2017-18 was filed on 12.10.2017 declaring Rs.Nil income after claiming deduction u/s 80P(2)(a)(i) of the Income Tax Act, 1961 (‘the Act’) of Rs.25,90,520/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-3,

Belgaum ('the Assessing Officer') vide order dated 28.11.2019 passed u/s 143(3) of the Act at a total income of Rs.11,50,472/-. While doing so, the Assessing Officer had denied the exemption u/s 80P(2)(a)(i)/80P(2)(d) in respect of interest income earned out of the surplus money invested with the bank i.e. The Cosmos Bank of Rs.11,50,472/- by placing reliance on the decision of the Hon'ble Karnataka High Court in the case of PCIT vs. Totagars Co-operative Sale Society, 395 ITR 611 (Kar.), the decision of the Hon'ble Gujarat High Court in the case of State Bank of India vs. CIT, 389 ITR 578 (Guj.) and the decision of the Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Co-op. Agricultural Development Bank Ltd., 389 ITR 607 (P&H).

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

6. Being aggrieved, the appellant is in appeal before us in the present appeal.

7. When the matter was called on, none appeared on behalf of the appellant-assessee despite due service of notice of hearing.

Therefore, we proceed to dispose of the matter after hearing the ld. Sr. DR.

8. We heard the ld. Sr. DR and perused the material on record. The issue in the present appeal relates to whether the interest income earned by the co-operative society on the investments made with the banks out of the surplus money qualifies for exemption u/s 80P(2)(a)(i) or section 80P(2)(d) of the Act or not?. The Pune Bench of the Tribunal had been taken a consistent view that the interest income earned by the co-operative society on the investments made with the schedule banks/co-operative banks/nationalized banks made out of the surplus money also qualifies for exemption u/s 80P(2)(a)(i) of the Act. 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 money 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. vs. 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 Pune Bench of the Tribunal 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 a 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 this Tribunal (Pune), we are of the considered opinion that the interest income earned on fixed deposits with cooperative bank/schedule bank partakes character of the business income, which is eligible for deduction u/s 80P(2)(a)(i) of the Act. In the light of the above settled position of law, we direct the Assessing Officer to allow the exemption in respect of interest income earned from schedule banks/co-operative banks/nationalized banks u/s 80P(2)(a)(i) of the Act. Accordingly, the grounds of appeal filed by the assessee stand allowed.

9. In the result, the appeal filed by the assessee in ITA No.92/PAN/2023 for A.Y. 2017-18 stands allowed.

ITA No.93 & 94/PAN/2023, A.Y. 2018-19 :

10. Since the facts and issues involved in remaining two appeals of the assessee are identical, therefore, our decision in ITA No.92/PAN/2023 for A.Y. 2017-18 shall apply *mutatis mutandis* to

the remaining two appeals of the assessee in ITA Nos.93 & 94/PAN/2023 for A.Y. 2018-19 respectively. Accordingly, the remaining two appeals of the assessee in ITA Nos.93 & 94/PAN/2023 for A.Y. 2018-19 stands allowed.

11. To sum up, all the above captioned three appeals of the assessee stands allowed.

Order pronounced on this 08th day of September, 2023.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 08th September, 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. DR, ITAT, Panaji.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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