

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 1143/DEL/2022 [A.Y. 2014-15]

ITA No. 1144/DEL/2022 [A.Y. 2015-16]

CA Co-operative Thrift & Credit  
Society Limited  
D-25, 2nd Floor, Gali No. 10  
Laxmi Nagar, New Delhi

Vs.

The P.C.I.T  
Delhi

PAN: AADAC 6816 A

(Applicant)

(Respondent)

Assessee By : Shri Yudhister Mehtani, CA

Department By : Shri T. James Singson, CIT-DR

**Date of Hearing : 13.09.2023**

**Date of Pronouncement : 15.09.2023**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

The above captioned two separate appeals by the assessee are preferred against the order of the ld. PCIT, Delhi-20, dated 24.03.2022 pertaining to Assessment Years 2014-15 and 2015-16.

2. Since the underlying facts in these two appeals are identical, both the appeals are decided by this common order for the sake of convenience and brevity.

3. Since the underlying facts are identical, we are addressing the facts of A.Y 2014-15.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. The assessee is a registered co-operative society engaged in the business of providing credit facilities to its members. The impugned assessment orders are framed u/s 143(3) r.w.s 147 of the Act wherein NIL returned income of the assessee was assessed at Rs. 2,55,32,512/- in A.Y 2014-15 and Rs. 2,87,90,915/- in A.Y 2015-16 after making addition u/s 68 of the Act.

5. Assuming jurisdiction conferred upon him by provisions of section 263 of the Act, the PCIT issued a show cause notice holding that the

assessment order dated 24.12.2019 is not only erroneous but also prejudicial to the interest of the revenue.

6. The PCIT was of the opinion that only income derived from interest/dividend by the co-operative society from its investments with any other co-operative society shall be allowable as deduction whereas the assessee has derived interest income from its investments with banks and the Assessing Officer has allowed the entire amount as deduction under Chapter VI-A when the Assessing Officer should have disallowed interest received from investment in banks, because of which assessment order is erroneous and prejudicial to the interest of the Revenue.

7. The PCIT was also of the view that the interest should have been charged u/s 234A of the Act, which has been undercharged by the Assessing Officer, making the order erroneous and prejudicial to the interest of the Revenue.

8. We have given thoughtful consideration to the orders of the PCIT. The bone of contention is the allowance of interest earned on bank deposits. This issue was considered by this Tribunal in assessee's own

case for A.Y 2019-20 in ITA No. 346/DEL/2023. The relevant findings read as under:

"7. From the modus operandi of the assessee discussed above, it is observed that the assessee accepts deposits from its members and provides credit facility to them at the time of their requirement. It is further observed that surplus funds not immediately required for deployment is kept in fixed deposits, which in turn, are pledged to the over draft facility taken by the assessee for transfer of funds to members either as loan or as repayment. Thus, it can be seen that the investment in fixed deposits is to augment the business activity of the assessee. In any case of the matter, as explained before me by the Id. counsel for the assessee, the interest income is also utilized for providing credit facility or repayments to members. Thus, in my view, the interest income being inextricably linked to the assessee's business activities as a credit society, would be eligible for deduction under section 80P(2) of the Act. The decisions relied by the Id. counsel for the assessee clearly support this view. Accordingly, I direct the Assessing Officer to allow assessee's claim of deduction u/s 80P(2) of the Act on Rs. 32,30,040/-.

9. Similar issue was considered by this Tribunal in the case of Nishpaksh Co-operative T & C Society Ltd ITA No. 7137/DEL/2-019 vide order dated 28.02.2022. The relevant findings read as under:

"8. I have considered rival submissions and perused the materials on record. The dispute in the present appeal is within a narrow compass. Firstly, whether the interest income earned on FDRs and saving bank accounts is assessable as income from business or profession and, secondly, whether the assessee is eligible to claim deduction under section 80P(2)(i)(a) of the Act. Undoubtedly, the assessee is engaged in the business of providing credit facilities/lending funds to its members. This factual position has not been disputed by the departmental authorities. It is the contention of the assessee from the initial stages that in course of its business of borrowing funds for lending to its members, the assessee has to pay interest and receive interest. Therefore, the unutilized borrowed funds which cannot be immediately lent to the members are temporarily parked in savings bank accounts or FDRs for earning interest income which ultimately merges with all its funds utilized for lending purpose. In my view, the aforesaid contention of the assessee merits consideration. When it is an accepted position that assessee is lending to its members for which it borrows funds, it has to be held that the unutilized borrowed funds temporarily parked as investments in FDRs and savings bank accounts has to be considered to be in the process of its business activity. More so, when the interest income earned merges with its funds utilized for lending to member. In case of National Co-operative Development Corporation (Supra), the Hon'ble Supreme Court while considering a similar nature of dispute has held that when fund not immediately required for utilization is invested for a short period so that the fund does not lie idle and the income generation from such investment is necessarily interlinked to the business of the assessee, would thus fall under the head of 'profit and gains from business or

profession. In my considered opinion, the aforesaid decision of the Hon'ble Apex Court settles the issue in favour of the assessee. Therefore, I hold that the interest income earned by the assessee has to be assessed under the head business income.

9. Insofar as, assessee's claim of deduction under section 80P(2)(a)(i), it needs to be factually verified wherefrom the assessee has earned the interest income. If the interest earned is from fixed deposits and savings bank accounts held in other cooperative banks, then the assessee would be eligible to claim deduction under section 80P(2)(a)(i) of the Act, as, cooperative banks are primarily cooperative societies. Therefore, after verifying the source of interest income, the Assessing Officer may allow assessee's claim of deduction under section 80P(2)(a)(i) of the Act. In view of my decision in ground nos. 2 and 3, ground no. 4 has become infructuous."

10. When the facts of the appeal under consideration are considered in light of the decision of the co-ordinate bench(s), we are of the view that the allowability of deduction is as per the decisions of the Tribunal [supra] and, therefore, to this extent, there is no error in allowing the same. Even otherwise, it can be safely concluded that two views are possible, and the Assessing Officer has taken a plausible view which cannot make his order erroneous and prejudicial to the interest of the Revenue. Therefore, to this extent we set aside the findings of the PCIT and restore that of the Assessing Officer.

11. Levy of interest is mandatory and should be as per the provisions of law. Therefore, we do not find any error in the directions of the PCIT to charge interest u/s 234A of the Act as per the provisions of law. We, therefore, do not find any reason to interfere in so far as this direction is concerned.

12. In the result the appeal of the assessee in ITA Nos. 1143 & 1144/DEL/2022 are partly allowed.

The order is pronounced in the open court on 15.09.2023.

**Sd/-**

**[ANUBHAV SHARMA]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 15<sup>th</sup> SEPTEMBER, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	