

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.102/Jab/2022
(ASSESSMENT YEAR- 2018- 2019)**

Jila Sahkari Kendriya Bank Karamchari Sakh Sahkari Samiti Maryadit Satna, Sahkar Bhawan, Behind Green Talkies, Pushpraj Colony, Satna (M.P)-485001.	vs	National E Assessment Center, Income Tax Department, New Delhi ACIT, Katni
(Appellant)		(Respondent)
PAN No. AABAJ4497Q		

Assessee By	None
Revenue By	Shri Shiv Kumar, Sr.DR
Date of hearing	12/09/2023
Date of Pronouncement	20/09/2023

ORDER

PER OM PRAKASH KANT, A.M.:

This appeal by the assessee is directed against the order dated 22.09.2022 passed by Ld. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi ["Ld.CIT(A)"] for assessment year 2018-19, raising following grounds:

1. *"The learned, AO as well as the CIT Appeal have erred in law and on facts of the case in disallowing the benefit of section 80P(2)(d) for deduction of interest received from district cooperative bank. The claim should have been*

allowed. The addition made at Rs. 1,84,110/- is illegal and unjustified should be deleted.

2. The assessee in the instant case fulfils all the required conditions for deduction under section 80p of the income tax act same should be allowed.”

2. Despite notifying, nether anyone attended on behalf of the assessee nor any adjournment was filed, therefore, the appeal is decided *ex-parte* qua the assessee after hearing arguments of the Ld. DR for the Revenue.

3. Briefly stated facts of the case are that the assessee is a cooperative society of employees of “Jila Sahkari Kendriya Bank” and registered under Madhya Pradesh Co-operative Societies Act, 1960. All the members of the society are employees of “Jila Sahkari Kendriya Bank”. The society is engaged in providing credit facilities to its members. The assessee society earned revenue in the nature of interest on credit facilities provided to its members and incurred expense mostly on paying interest to members of the society for acceptance of loan. The society keep idle fund in Fixed Deposit in “Jila Sahkari Kendriya Bank”. The assessee filed its original return of income on 11.07.2018 declaring total income at NIL. The return of income filed by the assessee shown profit of Rs.10,26,079/- and claimed deduction u/s 80P(2)(a)(i) of the Income Tax Act, 1961 (“the Act”). The case of the assessee was selected for scrutiny and

statutory notices were issued and complied with. During the course of assessment proceedings, the Assessing Officer (“AO”) pointed out that the total profit included amount of Rs.1,84,110/- which is interest earned on deposits with Cooperative Bank, which is deductible u/s 80P(2)(d) of the Act. The assessee accordingly, revised its computation of profit of Rs.10,26,079/- and claimed deduction of Rs.8,41,969/- u/s 80P(2)(a)(i) of the Act and deduction of Rs.1,84,110/- u/s 80P(2)(d) of the Act. The AO allowed the claim of deduction u/s 80P(2)(a)(i) of the Act however, denied the deduction u/s 80P(2)(d) of the Act on the ground that interest of Rs.1,84,110/- was earned from deposit in a bank, which is not a cooperative society as required under the provision of section 80P(2)(d) of the Act. The relevant finding of the AO is reproduced as under:-

10. “In response to said notice, the assessee has filed reply stating that M/s Jila Sahkari Kendriya Bank is a Co-operative Society recognized by State of Madhya Pradesh along with copy of license given by RBI to M/s Jila Sahkari Kendriya Bank vide No.RPCO.53/2011-12 dated 01.02.2012 to carry out its operations as bank. However, a perusal of said License which clearly indicates that the above entity can commence and carry on banking business specified to state of Madhya Pradesh similar to that of commercial bank.

10.1. It is pertinent to mention here that, the intention of the legislature to allow certain benefits of the interest earned from the co-operative society is on account of the fact that the co-operative societies are working under the mutuality concept. Whereas, in the case of co-operative banks, they are doing business to earn profits and not covered under the concept of mutuality. Even the persons who are not members of the co-operative bank can have transaction with the co-operative banks. Further co-operative societies are registered under Co-operative Society Act whereas co-operative banks are fully governed by the bank regulation act and completely under the supervision and control of the Reserve Bank of India. Therefore, it is clear that Co-operative Bank even though registered under the Co-operative Societies Act, its control and administration is vested with Reserve Bank and not with the Co-operative Society Act. This interpretation is supported by the decision of the Bombay ITAT in the case of M/s Bandra Shiv Samruddhi Co-operative Housing Society Ltd. wherein the learned ITAT has held that the provisions of 80P are not allowable to the said society.

10.2 Therefore, the contention of the assessee that M/s Jila Sahkari Kendriya Bank is a Co-operative Society is not acceptable and hence the deduction claimed u/s 80P(2)(d) of I.T.Act is denied. Accordingly, the assessment is completed, adding Rs.1,84,110/- (the interest income earned on investment in M/s Jila Sahkari Kendriya Bank) to the income computed as per latest order(CPC).

11. In view of the forgoing discussion, the assessment is hereby made by disallowing the amount of Rs.1,84,110/- for non-

fulfilment of requisite conditions laid down to claim deduction u/s 80P(2)(d) of the Income Tax Act, 1961. The sum payable/refund of any amount due on the basis of the assessment is determined as per the demand notice.”

4. On further appeal, Ld.CIT(A) upheld the finding of the AO.
5. The Ld. DR relied on the decision of Hon’ble Supreme Court in the case of ***The Mavilayi Service Co-operative Bank Ltd. &Ors. Vs CIT, Calicut & Anr. in Civil Appeal Nos.7343-7350 of 2019 dated 12.01.2021.***
6. We have heard the contention of Ld. DR on behalf of the Revenue on issue in dispute and perused the material available on record. We find that the issue in dispute is whether the interest of Rs.1,84,110/- earned on deposits with “Jila Sahkari Kendryia Bank” is eligible for deduction u/s 80P(2)(d) of the Act. For ready-reference, the provision of the section 80P(2)(d) of the Act is reproduced as under:-

Deduction in respect of income of co-operative societies.

80P(2)(a).....

(b).....

(c).....

(d) “in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income.”

7. Therefore, the prime requirement for the deduction u/s 80P(2)(d) of the Act is that interest should be earned by the assessee Co-operative society from its investments with other Co-operative societies. In the case of the assessee, the contention is that under the provision of Madhya Pradesh Co-operative Societies Act, 1960, the assessee can deposit its surplus fund with Co-operative Society which is a society registered under Madhya Pradesh Societies Act, 1960. The contention of the assessee is that following the Rules of the Co-operative Society Act, the society had deposited its surplus fund with “Jila Sahkari Kendriya Bank” and thus, it fulfils the requirements of provision of section 80P(2)(d) of the Act.

8. We find that identical issue of deduction u/s 80P(2)(d) of the Act has been allowed by the Tribunal in various cases including **ITA No. 997/Mum/2023 for AY 2019-20 in the case of Gautam Dhan Co-op Housing Society Ltd vs ITO**. The relevant finding of the Tribunal (supra) is reproduced as under:

5. We heard the rival submissions and perused the material on record. The sole matrix of the disputed issue emphasized by the Ld.AR is in respect of granting of deduction u/s 80P(2)(d) of the Act to the

Cooperative Society. The Ld. AR submitted that the interest income derived by a co-operative society from its deposits with the co-operative banks would be entitled for deduction U/sec 80P(2)(d) of the Act. The cooperative bank continues to be a co-operative society registered under the Co-operative Societies Act

6. We find the Coordinate Bench of the Honble Tribunal in the case of **M/s Amore Commercial Premises Co-op Society Ltd vs. CPC Karnataka in ITA No. 2873 & 2874/Mum/2022 dated 17-01-2023** has dealt on the taxability of interest earned on the deposits with the Co-operative Banks at page 2 Para 3 of the order, which is read as under:

3. Briefly stated facts necessary for consideration an adjudication of the issues at hand are :- Assessee being a Co-Operative Society has claimed disallowance/deduction u/s. 80P 4 ITA No. 997/Mum/2023 Gautam Dhan Co-op Housing Society Ltd., Mumbai (2)(d) in respect of the interest of Rs. 6,96,725/- for parking its funds with Saraswat Co-Operative Bank, Sham Vithal Rao Co-Operative Bank and district central Co-Operative Bank. However, centralized processing centre (CPC)/ Assessing Officer has disallowed the deduction Claimed by the Assessee u/s 143(1).

4. Assessee carried the matter before the Ld.CIT(A) by way of filing Appeals who has confirmed the addition by dismissing Appeals. Filing aggrieved Assessee has come up before the Tribunal by way of filing present Appeal.

5. We have heard the Ld. Authorized Representative of the parties to the Appeals, perused the order passed by the Lower Revenue Authorities and documents available on record in the light of the law applicable thereto.

6. Undisputedly Assessee Society has invested its surplus funds with Co-Operative banks and earned the interest income to the tune of Rs. 6,96,725/- and claimed it is deduction u/s. 80P (2)(d) of the Act, which has been disallowed by Assessing Officer &

confirmed by the Ld.CIT(A) by relying upon decision rendered by Hon'ble Karnataka High Court in case of principle Ld.CIT Vs. Totgar's Co-Operative Sales Society Ltd.

7. Issue as to the allow-ability of the deduction claimed by the Assessee u/s. 80P (2)(d) of the Act, is no longer Res-Integra having being decided by the co-ordinate Bench of the Tribunal in case of Palm Court M Premises Co-operative Society Ltd. in ITA No.561/M/2021 order dated 09.09.2022 by settling the issue in favour of the assessee by distinguishing the judgment rendered by Hon'ble Supreme Court in case of Totgar's Co-operative Sale Society Ltd. Vs. Income Tax Officer, 188 Taxman 282(SC) and by discussing the decision rendered by Hon'ble Bombay High and Hon'ble Gujarat High Court wherein it is held that interest income earned by the Co-operative Society on its investment made with co-operative bank would be eligible for claim of deduction under section 80P(2)(d) of the Act by returning following findings:

"8. We have given a thoughtful consideration to the contentions advanced by the Id. Authorized representatives for both the parties in context of the aforesaid issue under consideration. As stated by the Id. A.R, and rightly so, the issue that interest received by a co-operative society on its deposits with co-operative banks would be eligible for deduction w/s 80P(2)(d) of the Act is covered in assessee's favour by orders of the various coordinate benches of the Tribunal in the following cases: (i). M/s Solitaire CHS Ltd. Vs. Pr.CIT-26, Mumbai, ITA No.3155/Mum/2019, dated 29.11.2019 (ii). Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 52 (Mum.) (iii). M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017. (iv). Marwanjee Cama Park Cooperative Housing Society Ltd. V's. ITO-Range 20(2)(2), Mumbai (ITA NO. 6139/Mum/2014, dated 27.09.2017. (v). Kaliandas Udyog Bhavan Premises

Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai. In the aforesaid orders, it has been held by the Tribunal that though the cooperative banks pursuant to the insertion of sub-section (4) to Sec. 80P of the Act would no more be entitled for claim of deduction u/s 80P of the Act, but as a co-operative bank continues to be a co-operative society registered under the Cooperative Societies Act, 1912 (2 of 1912) or under any other law for the time being in force in any State for the registration of cooperative societies, therefore, the interest income derived by a cooperative society from its investments held with a co-operative bank would be entitled for claim of deduction w/s 80P(2)(d) of the Act.

We find that the aforesaid issue had exhaustively been looked into by the ITAT, "G" bench, Mumbai in the case of M/s Solitaire CHS Ltd, Vs. Pr.CIT-26, Mumbai ITA No.3155/Mum/2019, dated 29.11.2019, wherein the Tribunal had observed as under: "6. We have heard the authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as the judicial pronouncements relied upon by them. Our indulgence in the present appeal has been sought, for adjudicating, as to whether the claim of the assessee for deduction under section. 80P(2)(d) in respect of interest income earned from the investments/deposits made with the co-operative banks is in order, or not. In our considered view, the issue involved in the present appeal revolves around the adjudication of the scope and gamut of sub-section (4) of Sec. 80P as had been made available on the statute, vide the Finance Act 2006, with effect from 01.04.2007. On a perusal of the order passed by the Pr.CIT under Sec. 263 of the Act, we find, that he was of the view that pursuant to insertion of sub-section (4) of Sec. 80P, the assessee would no more be entitled for claim of deduction under Sec. 80P(2) (d) in respect

of the interest income that was earned on the amounts which were parked as investments/deposits with cooperative banks, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Observing, that the co-operative banks from where the assessee was in receipt of interest income were not cooperative societies, the Pr. CIT was of the view that the interest income earned on such investments/deposits would not be eligible for deduction under Sec. 80P(2)(d) of the Act.

7. After necessary deliberations, we are unable to persuade ourselves to be in agreement with the view taken by the Pr. CIT. Before proceeding any further, we may herein reproduce the relevant extract of the aforesaid statutory provision, viz. Sec. 80P(2) (d), as the same would have a strong bearing on the adjudication of the issue before us. "80P(2) (d) (1). Where in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in subsection (2), in computing the total income of the assessee. (2). The sums referred to in sub-section (1) shall be the following, namely:-

- (a).....*
-(b).....*
-(c).....*
- (d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;"*

On a perusal of Sec. 80P(2)(d), it can safely be gathered that interest income derived by an assessee co-operative society from its investments held with any other cooperative society shall be deducted in computing its total income. We may

herein observe, that what is relevant for claim of deduction under Sec. 80P(2)(d) is that the interest income should have been derived from the investments made by the assessee co-operative society with any other co-operative society. We are in agreement with the view taken by the Pr. CIT, that with the insertion of sub-section (4) of Sec. 80P, vide the Finance Act, 2006, with effect from 01.04.2007, the provisions of Sec. 80P would no more be applicable in relation to any co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. However, at the same time, we are unable to subscribe to his view that the aforesaid amendment would jeopardise the claim of deduction of a co-operative society under Sec. 80P(2)(d) in respect of its interest income investments/deposits parked with a co-operative bank. In our considered view, as long as it is proved that the interest income is being derived by a cooperative society from its investments made with any other co-operative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d) would be duly available. We find that the term cooperative society" had been defined under Sec. 2(19) of the Act, as under:- "(19) "Cooperative society" means a cooperative society registered under the Cooperative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any state for the registration of cooperative societies;" We are of the considered view, that though the cooperative banks pursuant to the insertion of subsection (4) to Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but as a cooperative bank continues to be a co-operative society registered under the Cooperative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of cooperative societies, therefore, the interest income derived by a cooperative society from its investments

held with a cooperative bank would be entitled for claim of deduction under Sec.80P(2) (d) of the Act. 8. We shall now advert to the judicial pronouncements that have been relied upon by the Id. A.R. We find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) on the interest income derived from its investments held with a cooperative bank is covered in favour of the assessee in the following cases: (i) Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH \$2 (Mum) (ii) M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017 (iii) Marvwanjee Cama Park Cooperative Housing Society Ltd. Vs. ITO Range-20(2)(2). Mumbai (ITA No. 6139/Mum/2014, dated 27.09.2017. (iv). Kaliandas Udyog Bhavan Premises Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai. We further find that the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), had held, that the interest income earned by the assessee on its investments with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act. Still further, we find that the CBDT Circular No. 14, dated 28.12.2006, also makes it clear beyond any scope of doubt that the purpose behind enactment of sub-section (4) of Sec. 80P was that the co-operative banks which were functioning at par with other banks would no more be entitled for claim of deduction under Sec. 80P(4) of the Act. Insofar the reliance placed by the Pr. CIT on the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. vs. ITO (2010) 322 ITR 283 (SC) is concerned, we are of the considered view that the being distinguishable on facts had wrongly been relied upon by him. The adjudication by the

Hon'ble Apex Court in the aforesaid case was in context of Sec. 80P(2)(a)(i), and not on the entitlement of a cooperative society towards deduction under Sec. 80P(2) (d) on the interest income on the investments/deposits parked with a co-operative bank. Although, in all fairness, we may observe that the Hon'ble High Court of Karnataka in the case of Pr. CIT Vs. Totagars cooperative Sale Society (2017) 395 ITR 611 (Karn), had concluded that a cooperative society would not be entitled to claim of deduction under Sec. 80P(2) (d). At the same time, we find, that the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), had observed, that the interest income earned by a co-operative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec. 80P(2) (d) of the Act. We find that as held by the Hon'ble High Court of Bombay in the case of K. Subramanian and Anr. Vs. Siemens India Ltd. and Anr (1985) 156 ITR 11 (Bom), where there is a conflict between the decisions of non jurisdictional High Court's, then a view which is in favour of the assessee is to be preferred as against that taken against him. Accordingly, taking support from the aforesaid judicial pronouncement of the Hon'ble High Court of jurisdiction, we respectfully follow the view taken by the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), wherein it was observed that the interest income earned by a cooperative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act.

9. Be that as it may, in our considered view, as the A.O while framing the assessment had taken a possible view, and therein concluded that the assessee would be entitled for claim of deduction under Sec. 80P(2) (d) on the interest income earned on its investments/deposits with cooperative banks, therefore, the Pr. CIT was in error in exercising his revisional jurisdiction u/s 263 for dislodging the same. In fact, as observed by us hereinabove, the aforesaid view taken by the A.O at the time of framing of the assessment was clearly supported by the order of the jurisdictional Tribunal in the case of Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 52 (Mum). Accordingly, finding no justification on the part of the Pr. CIT, who in exercise of his powers under Sec. 263, had dislodged the view that was taken by the A.O as regards the eligibility of the assessee towards claim of deduction under Sec. 80P(2)(d), we "set aside" his order and restore the order passed by the A.O under Sec. 143(3), date 14.09.2016."

As the facts and the issue involved in the present case before us remains the same as were there before the Tribunal in the case of M/s Solitaire CHS Ltd. (supra), wherein the order passed by the Pr. CIT u/s 263 of the Act was quashed, we, thus, respectfully follow the same. Backed by our aforesaid deliberations, we are unable to uphold the view taken by the Pr. CIT that the failure on the part of the A.O to be disallow the assessee's claim for deduction u/s 80P(2)(d) had rendered the assessment order passed by him u/s 143(3) of the Act, dated 31.08.2017 as erroneous in so far it was prejudicial to the interest of the revenue. 9. Accordingly, on the basis of our aforesaid observations, we herein not finding favor with the view taken by the Pr. CIT that the order passed by the A.O u/s 143(3), dated 31.08.2017 was erroneous in so far it was prejudicial to the interest of the revenue within the meaning of Sec. 263 of the Act set-aside

the same and restore the order passed by the A.O u/s 143(3) of the Act, dated 31.08.2017."

8. Hon'ble High Court of Karnataka in case of Pr. CIT & Anr.Vs. Totgar's Co-operative Sale Society Ltd. (2017) 292 ITR 74 (Kar.) and Hon'ble Gujarat High Court in case of State Bank of India vs. CIT (2016) 389 ITR 578 (Guj.) had held that interest income earned by a co-operative society on its investment held with cooperative bank would be eligible for claim of deduction under section 80P(2)(d) of the Act.

9. So following the decision rendered by Hon'ble Karnataka High Court (supra) and Hon'ble Gujarat High Court (supra), we are of the considered view that assessee society who has earned an amount of Rs. Rs. 6,96,725/- from its investment of surplus fund with cooperative banks is entitled for deduction under section 80P(2)(d) of the Act. Resultantly, the Ld. CIT(A) has erred in upholding the denial of deduction by the AO to the assessee under section 80P(2)(d) of the Act.

7. Considering the facts, circumstances and the ratio of the judicial decisions. The Honble Tribunal has passed the order and relied on catena of judicial decisions were the cooperative society receives/ earns interest on deposits with the co-operative bank is eligible for claim of deduction under section 80(2)(d) of the Act. Accordingly, follow the judicial 11 ITA No. 997/Mum/2023 Gautam Dhan Co-op Housing Society Ltd., Mumbai precedence, and set aside the order of the CIT(A) on this disputed issue and direct the Assessing officer to allow the claim of deduction u/sec 80P(2)(d) of the Act on the interest income/dividend received /earned from the co-operative banks. And the grounds of appeal filed by the assessee are allowed.

7. We find that the decision of Hon'ble Supreme Court in the case of **The Mavilayi Service Co-operative Bank Ltd. & Ors. Vs CIT (supra)** cited by the Ld. DR relates to the deduction u/s

80P(2)(a)(i) of the Act and limits the profit earned from activity of the credit facility to its members only. The relevant finding of Hon'ble Supreme Court is reproduced as under:-

45. "To sum up, therefore, the ratio decidendi of Citizen Cooperative Society Ltd. (supra), must be given effect to. Section 80P of the IT Act, being a benevolent provision enacted by Parliament to encourage and promote the credit of the co-operative sector in general must be read liberally and reasonably, and if there is ambiguity, in favour of the assessee. A deduction that is given without any reference to any restriction or limitation cannot be restricted or limited by implication, as is sought to be done by the Revenue in the present case by adding the word "agriculture" into Section 80P(2)(a)(1) when it is not there. Further, section 80P(4) is to be read as a proviso, which proviso now specifically excludes co-operative banks which are co-operative societies engaged in banking business i.e. engaged in lending money to members of the public, which have a licence in this behalf from the RBI. Judged by this touchstone, it is clear that the impugned Full Bench judgment is wholly incorrect in its reading of Citizen Cooperative Society Ltd. (supra). Clearly, therefore, once section 80P(4) is out of harm's way, all the assessees in the present case are entitled to the benefit of the deduction contained in section 80P(2)(a)(i), notwithstanding that they may also be giving loans to their members which are not related to agriculture. Also, in case it is found that there are instances of loans being given to non-members, profits attributable to such loans obviously cannot be deducted."

7.1. Therefore, ratio of the decision relied upon by the ld DR is not applicable over facts of the case. The ratio in the case of Tribunal in the case of **Gautam Dhan Co-op Housing Society Ltd vs ITO (supra)** is squarely applicable over the facts of the case, therefore respectfully, following the finding of Tribunal(supra), the issue in dispute in the case of assessee, is allowed in favour of the assessee. Accordingly, we set aside the order of Ld.CIT(A) and delete the disallowance of deduction under reference. Grounds raised by the assessee are accordingly, allowed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 20/09/2023.

Sd/-

**(PAVAN KUMAR GADALE)
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Amit Kumar

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Asstt. Registrar
Jabalpur Bench