

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.1858/Mum/2023

(A.Y. 2019-20)

Shivdham Co.Op. Housing Society, Plot No. 15 & 24 Shivdham CHS, Sector 12, Vashi, Navi Mumbai – 400703	Vs.	ITO Ward 28(1)(4), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADAS6931L		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Prakash Kishinchandani

Date of Hearing	04.09.2023
Date of Pronouncement	27.09.2023

आदेश / ORDER

Per Amarjit Singh (AM):

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 27.03.2023 for A.Y. 2019-20. The assessee has raised the following grounds before us:

“The CIT Appeal erred in confirming the order of ACIT CPC in not rectifying the order under 154.

Without Prejudice:

The CIT Appeal has erred in confirming the order of Assessing Officer ACIT CPC of not granting deduction u/s 80P(2)(d) of Rs. 75,185/-.

The CIT Appeals has erred in accepting the order of ACIT CPC in not accepting Returned NIL. Income by the Appellant.

The Appellant craves leave to add, alter, amend modify the aforesaid ground/s of appeal at or any time before the hearing as they may be advised from time to time.”

2. Fact in brief is that assessee is a Cooperative Housing Society and filed return of income for the assessment year 2019-20 showing nil income. The return was processed by CPC on 08.09.2020 by making a disallowance of Rs.75,185/- u/s 80P(2)(d) of the Act.
3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee holding that the interest derived from investment with any Co-operative Bank is not eligible for deduction u/s 80P(2)(d) of the Act.
4. Heard both the sides and perused the material on record. During the year under consideration the assessee cooperative society has received interest of Rs.75,185/- from the deposit kept with the Maharashtra State Cooperative Bank Vashi Branch and claimed deduction u/s 80P(2)(d) of the Act. The ld. CIT(A) has mentioned that by introduction of sub section (4) the Co-operative Bank has been excluded from availing the benefits of deduction u/s 80P(2)(d) of the Act. The ld. CIT(A) was of the view that exclusion of Co-operative Banks means Co-operative Society are also not entitled for deduction u/s 80P(2)(d) on the interest earned on investment made with the Co-operative Banks. Some of the decision of the ITAT wherein the claim of deduction u/s 80P(2)(d) was allowed on the interest income earned from deposit with cooperative bank are as under:

- “1. *Abhinav Nagar Co-op. Hsg. Soc Ltd. Vs. AO, CPC, Vide ITA Nos. 2564 & 2565/Mum/2022.*
2. *Bhag Coop Housing Society Ltd. Vs. Asst. CIT, CPC vide ITA No. 1972/Mum/2022.*
3. *Samapan A & B Wing Co-operative Housing Society Ltd. Vide ITA No. 2121/Mum/2022.*

4. *Sumer Nagar Co-operative Housing Society Ltd. Vs. ITO, Ward 32(3)(4) vide ITA No. 1239/Mum/2022.*
5. *ACIT, Circle 23(3) Vs. The Salsette Catholic Co-operative Housing Society vide ITA Nos. 3870 & 3871/Mum/2019.”*

In the case of Kaliandas Udyog Bhavan Premises Coop. Society Ltd. Vs. ITO vide ITA No. 6547/Mum/2017 dated 25.04.2018 it is held that though the cooperative bank pursuant to the insertion of subsection (4) of Sec. 80P is no more be entitled for claim of deduction u/s 80P of the Act, but however, as a cooperative bank continued to be a cooperative society registered under the Cooperative Society Act, therefore, the interest income earned by a cooperative society from its investment held that cooperative bank would be entitled for claim of deduction u/s 80P(2)(d), therefore, we direct the AO to allow the claim of deduction to the assessee in respect of interest earned from investment made with the cooperative bank, Therefore, the appeal of the assessee is allowed.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27.09.2023

Sd/-

(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 27.09.2023

Rohit: PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.