

**आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

**आ.अ.सं./ITA No.438/SRT/2022**

(Hearing in Physical Court)

M/s Sachin Udyog Nagar Sahkari Mandli Ltd., 2 <sup>nd</sup> Floor, Vivekanand Chambers, Beside Rajeshree Hall, Sagarampura, Surat- 395002 <b>PAN No. AACTS 7414 C</b>	Vs	Assistant Commissioner of Income Tax-Circle-1(2), Aaaykar Bhavan, Majura Gate, Surat-3950001
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

निर्धारिती की ओर से / Assessee by	Shri Kamlesh Bhatt, C.A
राजस्व की ओर से / Revenue by	Shri Ashish Pophare, CIT-DR
सुनवाई की तारीख/Date of hearing	20.10.2023
उद्घोषणा की तारीख/Date of pronouncement	20.10.2023

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi [for short to as “NFAC/Ld. CIT(A)”] dated 11.11.2022 for assessment year 2017-18. Initially this appeal was adjudicated vide order dated 07.02.2023 alongwith ITA No. 439/Srt/2022. However, the order dated 07.02.2023 was partially recalled vide order dated 27.08.2023, qua present appeal in Miscellaneous Application (MA) No.47/SRT/2023 by Revenue. Thus, this appeal was fixed for hearing afresh. The assessee has raised the following grounds of appeal:

“1. In view of the facts and circumstances of the case and in particular CIT(a)’s order in case of for A.Y. 2015-16 in Appeal No.CIT(A)/SURAT-2/ 10544/ 17-18 and Hon’ble ITAT order in ITA.445/SRT/2019 confirming this order of CIT(A),

*the Ld. CIT(A) erred in law and inf acts in denying the deduction u/s 80P(2)(d) of the Acet and hence Your Appellant prays that the present order being the subject-matter of this appeal and the order of the Ld.AO be quashed and the claim of the appellant u/s 80P(2)(d) in respect of the interest received from the Co-operatives be allowed as claimed.”*

2. Brief facts of the case are that assessee is a Co-operative Society and engaged in business of “Development of Small Scale Industrial Undertaking on co-operative basis to its members”. The assessee while filing its return of income for assessment year 2017-18 declared income of Rs.5.50 lakh. In the computation of assessee’s total income, the assessee claimed deduction of Rs.4.79 crores under Chapter-VIA of the Act. The case was selected for scrutiny. During assessment, Assessing Officer noted that assessee has claimed deduction under section 80P(2)(d) of Rs.4.7 9 crores. The Assessing Officer, as recorded in assessment order, on the basis of decision of Hon’ble Karnataka High Court in the case of Totagar Co-operative Sale Society in ITA No.100066/2016 & connected cases disallowed entire deduction under section 80P(2)(d) vide issued show cause notice dated 02.11.2019 as to why such deduction should not be disallowed. The contents of show cause notice is recorded in para-5 of assessment order. In response thereto, the assessee filed its reply dated 04.11.2019 and submitted that assessee is a co-operative society and earned interest income from various co-operative bank and saving bank interest only. The NFAC/Ld.CIT(A) in assessee’s own case allowed similar deduction in assessment year 2015-16.

3. The reply of assessee was not accepted by Assessing Officer and held that co-operative and nationalized bank is an urban commercial bank and does not fall under the purview of a “Co-Operative Society” referred in Section 80P(2)(d) of the Act and disallowed entire deduction of Rs.4.79 crores. Aggrieved by the order of Assessing Officer assessee filed appeal before Id. CIT(A). Before Id. CIT(A) upheld the action of Assessing Officer on similar lines. The Id. CIT(A) also held that if such interest income had deductible, the co-operative society would earn more and more interest rather than serving its members, who are in dire need of help for agricultural or other co-operative activity. Further aggrieved, assessee has filed present appeal before the Tribunal.
4. We have heard the submission of Ld. Authorized Representative (Ld.AR) for the assessee and Ld. Commissioner of Income Tax-Departmental Representative (Ld. CIT-DR) for the Revenue. The Ld. AR for the assessee submits that during relevant financial year, assessee earned interest income from co-operative banks of Rs.2.15 crores and assessee also earned interest from nationalized bank of Rs.15,298/-. Interest earned from nationalized bank is not claimed as deduction under section 80P(2)(d). The Ld.AR for the assessee submits that assessee also earned interest from co-operative bank in earlier year but not offered in respective earlier years and credited to reserve account and offered as income in the year under consideration of Rs.2.63 crores. Thus, assessee claimed total deduction of Rs.4.79 crores under section 80P(2)(d). The Ld. AR for the assessee submits that complete details and bifurcation of interest earned from co-operative bank in the current

financial year is given in page-2 of paper book and complete details and bifurcation of interest earned from co-operative bank in earlier year is also shown at page-3 to 7 of paper book. The Ld. AR for the assessee carried us from such details. The Ld. AR for the assessee submits that it is settled legal position under law that co-operative bank are primarily a co-operative society and interest and dividend earned from such co-operative banks are eligible for deduction under section 80P(2)(d) as has been held in a series of decisions of this Bench as well as other Benches of Tribunal including decision of Hon'ble jurisdictional High Court in the case of Surat Vankar Sahakari Sangh Ltd. vs. ACIT in TA No.93-96 of 2008 dated 12.07.2016 22 taxmann.com 169 (Guj). The ld AR for the assessee submits that similar relief was allowed to the assessee in earlier years either at the stage of ld CIT(A) or by Tribunal.

5. On the other hand, Ld. CIT-DR for the Revenue after going through details of interest earned from various co-operative banks and the submission of ld AR for the assessee, submits that so far as interest income of Rs. 2.15 crore, earned from cooperative Bank in current year financial year is concern seems to be correct, however, he still supports the order of lower authorities. So far as other interest income, which is related to earlier year, same has not been verified either by Assessing Office or by Ld.CIT(A), therefore, if the bench is of the view that the assessee deserves any relief, then interest component of Rs.2.63 crores pertaining to earlier year may be restored back to the file of Assessing Officer for proper verification and to pass afresh order in accordance with law.

6. In rejoinder, Ld. AR of the assessee submits that issue relating to earlier years was shown and verified by Assessing Officer during assessment proceedings while issuing show cause notice dated 09.12.2019, copy of such notice is filed on record. However, the ld AR for the assessee submits that same may be allowed, subject to verification by assessing officer
7. We have considered the rival submission of both the parties and have gone through the order of lower authorities carefully. We find that as per submissions of ld AR for the assessee, the ground of appeal raised by assessee contains deduction of interest income from cooperative bank in the current financial year as well as similar interest income earned from cooperative bank in earlier years but not offered in respective years. We find that interest income from cooperative bank of Rs. 2.15 Crore is covered in favour of assessee by various decision of this Tribunal wherein it was held that it was held that co-operative banks are primarily co-operative and interest or dividend earned from co-operative banks are eligible for deduction under section 80P(2)(d). Such view get strength from the binding precedent of jurisdictional High Court in *Surat Vankar Sahkari Sangh v. Asstt. CIT* [\[2016\] 72 taxmann.com 169/\[2020\] 421 ITR 134 \(Gujarat\)](#). Similar view was taken in assessee's own case for AY 2018-19 in ITA No. 439/Srt/2022, by following the order for AY 2015-16 in ITA No. 445/Srt/2019 date 06/10/2022.
8. So far as remaining deduction of Rs. 2.63 Crore allegedly earned by the assessee as interest income from cooperative bank in earlier years and

was not claimed as deduction under section 80P(2)(d) in those years, but credited to reserve and surplus and offered as income in this year is concern. Though, in principle we are in agreement with the submissions of Id AR for the assessee that the assessee is also eligible for deduction under section 80P(2)(d), yet such facts were not examined by assessing officer, therefore this part of deduction is restored back to the file of assessing officer with the direction to verify the facts and allow appropriate relief to the assessee in accordance with law. The assessee is also directed to provide complete details of such interest income to the assessing officer. In the result, the grounds of appeal raised by the assessee are allowed as indicated above.

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

Order pronounced in open court on 20/10/2023 at the time of hearing.

<b>Sd/-</b> <b>(Dr ARJUN LAL SAINI)</b> <b>[लेखा सदस्य/ACCOUNTANT MEMBER]</b>	<b>Sd/-</b> <b>(PAWAN SINGH)</b> <b>[न्यायिक सदस्य JUDICIAL MEMBER]</b>
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Surat, Dated: 20 /10/2023

*Dkp. Out Sourcing Sr.P.S*

Copy to:

1. Appellant-
2. Respondent-
3. CIT
4. DR
5. Guard File

// True Copy //

Sr. Private Secretary /Private Secretary  
/Assistant Registrar, ITAT, Surat