

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 2899/Mum/2023

(Assessment Year: 2015-16)

M/s Splendor Complex CHS Ltd.
CTS No.1, Part of Village,
Majas Depot,
Jogeshwari Vikhroli Link Road,
Andheri (E), Mumbai-400 060

Vs.

ACIT,
Circle 31(3),C-13,
Room No.110,
1st Floor, Bandra Kurla
Complex, Badra East,
Mumbai-400 051

(Appellant)

(Respondent)

PAN No. AALAS9136K

Assessee by : Shri Paresh Gohil, AR
Revenue by : Shri Prashant Mahajan, DR

Date of hearing: 14.12.2023
Date of pronouncement : 21.12.2023

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No.2899/Mum/2023 is filed by the assessee for A.Y. 2015-16 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) dated 22nd June, 2023, wherein the appeal filed by the assessee against the assessment order dated 16th December, 2017, passed under Section 143(3) of the Income-tax Act, 1961 (the Act), was partly allowed. However, the assessee was aggrieved wherein the interest received by the assessee of ₹50,58,522/-, from co-operative bank was denied deduction under Section 80P(2)(d) of Income-tax Act, 1961 (the Act).



02. Brief facts of the case shows that assessee is a co-operative housing society, who filed its return of income on 17th October, 2016, at ₹36,59,920/-. The return was picked up for scrutiny. It was found that assessee has claimed deduction of ₹50,58,522/- under Section 80P(2)(d) of the Act on interest received from Mumbai District Co-operative Bank. According to the learned Assessing Officer same is not allowable as per Provisions of Section 80P(4) of the Act. Therefore, the learned Assessing Officer passed an assessment order under Section 143(3) of the Act on 16th December, 2017, holding income of interest from co-operative bank as chargeable to tax determining the total income of the assessee at ₹90,33,442/-.
03. The assessee preferred the appeal before the learned CIT (A), wherein several judicial precedents were cited by the assessee and stated that the provisions of Section 80P(4) of the Act does not apply to the assessee. The learned CIT (A) as per paragraph no.5 of the order denied the deduction holding that any income of co-operative society being interest received from any co-operative bank is not allowable for deduction under Section 80P(2)(a) and 80P(2)(d) of the Act. Accordingly, denial of deduction under Section 80P (2)(d) of the Act on interest received of ₹50,58,522/-, was confirmed. Therefore, assessee is in appeal before us.
04. We have heard the rival contentions. The only issue is involved in this appeal is where the assessee is a resident



co-operative Housing Society earning interest income from co-operative bank is eligible for deduction under Section 80P(2)(d) of the Act or not. The lower authorities have denied the deduction applying the provisions of Section 80P(2)(d)(4) of the Act. We find that the provisions of Section 80P(4) of the Act applies in relation to co-operative bank and assessee is not co-operative bank. Further, assessee is claiming the deduction under Section 80P(2)(d) of the Act, which grants deduction in respect of income of co-operative societies earned by way of interest from its investment with another co-operative society. Therefore, on plain reading of the provisions of the Act, assessee is entitled to the deduction of interest income earned by it from co-operative bank under Section 80P(2)(d) of the Act. Before us, several judicial precedents are cited however, without multiplying the same when the assessee is not a co-operative bank, we holding that it is eligible for deduction.

05. Accordingly, ITA No.2899/Mum/2023, is allowed.

Order pronounced in the open court on 21.12. 2023.

Sd/-
(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.12. 2023
Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai