

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1496/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2021-22

PSG Employees Cooperative  
Housing Society,  
1609, Peelamedu, Coimbatore  
South,  
Coimbatore – 641 004.

**[PAN: AADAP-3102-C]**

(अपीलार्थी/Appellant)

The Income Tax Officer,  
v. Non-Corporate Ward -1(1),  
Coimbatore.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. M. Karunanantham, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 19.02.2024

घोषणा की तारीख/Date of Pronouncement

: 19.02.2024

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 06.12.2023 and pertains to assessment year 2021-22.

2. The assessee has raised the following grounds of appeal:

*"This appeal has been preferred against the order dated 06.12.2023 passed under section 250 of Income Tax Act 1961,*

*via order No. ITBA/NFAC/S/250/2023-24/1058512491(1) passed by CIT Appeal NFAC confirming the order passed by the assessing officer. The appellant is also disputing the order passed by the assessing officer dated 09.12.2022 passed Under Section 143(3) of Income Tax Act 1961 by National Assessment Centre Delhi for Assessment year 2021-22 via order No, ITBA/NFAC/S/143 (3) /2022~ 23/1047910 741 (1)."*

3. The brief facts of the case are that, the assessee is a Co-operative Housing Building Society, filed its return of income for the assessment year 2021-22 dated 08.01.2022, declaring total income of Rs. Nil, after claiming deduction u/s. 80P of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), amounting to Rs. 1,19,22,467/-. The case was selected for scrutiny and during the course of assessment proceedings, the Assessing Officer has issued various notices u/s. 142(1) of the Act, but no response from the assessee. Therefore, the Assessing Officer has issued a show cause notice, dated 16.11.2022 and called upon the assessee to explain as to why deduction claimed u/s. 80P of the Act, in respect of interest received on fixed deposits with other co-operative banks cannot be disallowed. In response, the assessee submitted that, interest income earned by a co-operative society on deposits in any other co-operative society/bank is exempt u/s. 80P(2)(d) of the Act. Therefore, the question of disallowance of interest u/s. 80P of the Act does not arise. The Assessing Officer, however was not convinced with explanation furnished by the assessee

and according to the Assessing Officer, interest earned with co-operative society from its investments with any other co-operative society is alone deductible u/s. 80P(2)(d) of the Act, but not interest earned from a co-operative bank. Therefore, rejected arguments of the assessee and made additions of Rs. 78,90,410/-, towards interest income earned from other co-operative banks. The assessee carried the matter in appeal before the first appellate authority, but could not succeed. The assessee neither appeared before the Id. CIT(A) nor filed any details, even though the Id. CIT(A) posted the appeal for hearing on four occasions. Therefore, the Id. CIT(A) dismissed appeal filed by the assessee and sustained additions made by the Assessing Officer towards interest income earned from other co-operative banks. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

4. The Ld. Counsel for the assessee, submitted that this issue is squarely covered by the decision of Hon'ble High Court of Madras in the case of Thorapadi Urban Co-op Credit Society Ltd & Others vs ITO in WP No. 1112 of 2023, dated 10.10.2023, where the Hon'ble High Court of Madras held that, a co-operative society is entitled to avail benefit of deduction u/s. 80P(2)(d) of

the Act, in respect of interest income earned from any other co-operative society.

5. The Id. DR, Shri. D. Hema Bhupal, JCIT, on the other hand submitted that, the matter may be set aside to the file of the CIT(A) to examine the claim of the assessee, in light of the decision of Hon'ble High Court of Madras in the case of Thorapadi Urban Co-op Credit Society Ltd & Others vs ITO (supra), because the lower authorities did not get the opportunity of examining the case laws cited by the assessee. Therefore, he submitted that the matter may be set aside to the file of the Assessing Officer or CIT(A) for fresh examination.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The provisions of section 80P(2)(d) of the Act, provides for deduction towards any income by way of interest or dividend derived by a co-operative society from its investment with any other co-operative society. The term Co-operative Society has been defined u/s. 2(19) of the Act, which includes a co-operative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any state for the registration of co-operative societies. The reading of the

above definition would make it clear that, Co-operative Society means a co-operative society registered under Co-operative Societies Act, 1912 and thus, a co-operative society refer to therein is only a co-operative society as defined under the Act, be it a co-operative society carrying on banking business or co-operative society carrying on the other business or a co-operative bank. Further, for the purpose of deduction u/s. 80P(2)(d) of the Act, what is required to be seen is, interest income or dividend income earned from a co-operative society from its investment with other co-operative societies, whether such society is co-operative bank or not. Since, the appellant is a co-operative society, deriving income by way of interest from deposits with other co-operative society being a District Central Co-operative Bank, in our considered view, interest income earned by the assessee from its investments with other co-operative central bank is eligible for deduction u/s. 80P(2)(d) of the Act. This legal proposition is supported by the decision of Hon'ble High Court of Madras in the case of Thorapadi Urban Co-op Credit Society Ltd & Others vs ITO (Supra), where the Hon'ble High Court by following the decision of Division Bench of Hon'ble High Court of Madras in the case of CIT vs The Salem Agricultural Producers Co-operative Marketing Society Ltd in Tax Case Appeal No. 5 of 2015, held that a co-operative society is entitled to avail

the benefit u/s. 80P(2)(d) of the Act. Therefore, we are of the considered view, that the appellant has rightly claimed deduction towards interest income earned from deposits with other co-operative bank u/s. 80P(2)(d) of the Act and thus, we set aside the order passed by the Id. CIT(A) and direct the Assessing Officer to delete additions made towards interest income earned by the appellant from its investment with other co-operative banks.

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

Order pronounced in the open court on 19<sup>th</sup> February, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(मंजूनाथा. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 19<sup>th</sup> February, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF