

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.3789/Mum/2023
(Assessment Year: 2016-17)**

The Mangalorean Garden Homes Co-op Hsg. Soc. Ltd. Rebello House, 132, Hill Road, Bandra (West), Mumbai - 400 050	Vs.	Income Tax Officer Ward 23(3)(4) Matru Mandir, Tardeo road, Mumbai - 400 007
PAN/GIR No. AAAAT3420G		
(Appellant)	..	(Respondent)

Assessee by	Shri Subhash Shetty
Revenue by	Smt. Mahita Nair (Sr. D.R.)
Date of Hearing	29/02/2024
Date of Pronouncement	29/02/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by assessee against order dated 28.8.2023, passed by the National Faceless Appeal Centre (NFAC), Delhi for the quantum of assessment passed u/s. 143(3) of the Income Tax Act, 1961 ('the Act') for Assessment Year (AY) 2016-17. The only issue raised is regard to addition of Rs.50,16,338/-

made by the Learned Assessing Officer (Ld. AO) on account of the dis-allowance of deduction u/s. 80P(2)(d) of the Act.

2. The assessee is a co-operative housing society having income from Citizen Credit Cooperative Bank Ltd., Saraswat Co-operative Bank Ltd. and Maharashtra State Co-operative Bank Ltd. The Ld. AO noted that the assessee has an interest of Rs.50,16,338/- on bank fixed deposits and savings account, which was claimed as exempt u/s. 80P(2)(d) received from various co-operative societies and banks.

3. Accordingly, the Ld. AO relying upon the decision of Hon'ble Karnataka High Court in the case of Principal Commissioner of Income Tax, Hubballi vs. Totagars Co-operative Sale Society (2017) 83 taxmann.com 140 (Karnataka) disallowed the claim u/s. 80P(2)(d). The Learned CIT(A) too has confirmed the said addition following the same judgment of Hon'ble Karnataka High Court.

4. Before us it has been brought on record that this issue has come before the Tribunal in several cases wherein after discussing the decision of Hon'ble Karnataka High Court, claim of section 80P(2)(d) has been allowed interest received from co-operative banks of the co-operative societies. For sake of ready reference, the decision of ITAT order No. 1195/Mum/2023, dated 10.7.2023, in case of Rustomjee Aspiree Premises Co-op. Soc. Ltd., wherein the Tribunal after referring to various decisions has allowed the claim of

deduction. Mostly according to the decision of Hon'ble Kerala High Court in the case of PCIT vs. Percoorkada Services Company Bank Ltd. (2022) 442 ITR 141 (Kerala), the claim of deduction of interest income is allowed.

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

Order pronounced on 29th February, 2024

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated: 29/02/2024
Mini Pawar, Sr.P.S

Copy of the Order forwarded to :

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

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai