

**।आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES “A” :: PUNE**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER**  
**AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.1427/PUN/2023**  
**निर्धारण वर्ष / Assessment Year : 2018-19**

Ajayshree Gramin Bigar Sheti Sahakari Patasanstha Maryadit, AT Post Murum, Tal Baramati, Dist Pune, Pune – 412306. PAN: AAAAAA9964E	V s	The National Faceless Assessment Centre(NFAC), Delhi.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Manoj R Jain – AR
Revenue by	Shri Ramnath P Murkude - DR
Date of hearing	06/03/2024
Date of pronouncement	08/03/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee against the order of  
ld.Commissioner of Income Tax(Appeal)[NFAC] dated  
30.10.2023 for A.Y.2018-19. The Grounds of appeal raised by the  
assessee are as under :

*“1. The learned CIT (A) has erred in confirming the addition of  
Rs.86,59,612/-made by the AO on account of disallowance of  
deduction claimed by the appellant u/s 80P(2)(a)(i) of the Act without  
considering the detailed submissions made by the appellant and  
without passing any speaking order, on the ground that only the  
income earned by providing credit facility to its members be treated*

*as an activity covered u/s 80P(2)(a)(i) of the Act and as the interest income is not operational income the same be treated as income from other sources not eligible for deduction u/s 80P of the Act without appreciating the submissions given by the appellant.*

2. *On the facts and circumstances of the case and in law the learned CIT(A) has erred while confirming the addition and failed to appreciate the following important facts:*

- a. *That the investment in these financial institutions is as per the provisions of Maharashtra Co-op Societies Act.*
- b. *That the income received on account of interest from banks are part of banking activity permissible under the Maharashtra Co-op Societies Act.*
- c. *That interest earned on bank deposits kept with Co-operative bank/ Co-operative Societies constitutes income eligible for deduction u/s 80P of the Act.*

3. *With prejudice to above the grounds the Id CIT(A) failed to appreciate the main contention that the interest income from co-operative banks is eligible for deduction u/s 80P of the Act, and on the facts and circumstances of the case failed to consider the following important facts:*

- a. *That the appellant has been consistently claiming deduction u/s 80P in the ROI filed till date and out of the same for two assessment years the ROI has been assessed u/s 143(3) of the Act and deduction claimed has been allowed by the AO.*
- b. *That based upon the principle of consistency the claim must be allowed as the Id AO had not pinpointed any distinguishing facts in the said assessment year.*

c. *That the “Principle of Consistency” requires is, when the facts and circumstances continue to remain the same, then there should not be any variation in the treatment from that of the earlier years.*

4. *With prejudice to the above grounds the ldCIT(A) failed to appreciate the main contention of the appellant that the interest income from co-operative banks is eligible for deduction u/s 80P of the Act, and on the facts and circumstances of the case has erred in confirming the action of the learned AO who did not allow proper and adequate deduction u/s 57(iii) of the Act from the interest income earned by the appellant society only on the ground appellant society failed to produce any evidence to show that it had expended any expenditure wholly and exclusively to earn interest income from Co-operative Banks, Commercial Banks and other Financial Institutions in order to be eligible for deduction u/s 57 (iii) of the Act disregarding the submissions given by the appellant society.*

5. *The appellant may kindly be permitted to add to or alter any of grounds of appeal, if deemed necessary.”*

**Brief facts of the case :**

2. In this case, assessee is a Credit Co-operative Society engaged in the business of providing credit facilities to its members. For A.Y.2018-19, assessee filed return of income on 26.10.2018 declaring total income of Rs.2,66,920/- after claiming deduction under section 80P.

2.1 The assessee's case was selected for limited scrutiny to verify deduction under Chapter-VIA of the Act. Accordingly, Assessing Officer(AO) issued various notices. Assessee filed its submission. AO observed in the assessment order that assessee had shown following interest income and claimed deduction under section 80P(2)(a)/80P(2)(d) of the Income Tax Act, 1961.

S.No.	Name of the bank	Interest income earned
1	The Pune Dist. Central Co-Bank Ltd	Rs.48,40,627/-
2	The Baramati Sahakari Bank Ltd	Rs.38,18,985/-
	Total	Rs.86,59,612/-

3. The AO denied assessee's claim or deduction and added the amount of Rs.86,59,612/-. Aggrieved by the order of the AO, the assessee filed appeal before the ld.CIT(A). The ld.CIT(A) sustained the addition made by the AO. Aggrieved by the same, the assessee filed appeal before this Tribunal.

**Findings &Analyss :**

3. We have heard both the parties and perused the records. It was pleaded by the ld.AR that the issue of eligibility for deduction under section 80P(2) of the Act is covered by decision of ITAT Pune in various Co-operative Society Cases.

3.1 We observed that the issue is covered by ITAT Pune Bench's order in the case of Sumitra Gramin Bigar Sheti Sahakari Pat Sanstha Maryadit Mahaveer Path for A.Y.2008-09 which has decided the same issue in favour of assessee in ITA No.2476/PUN/2016. In that case assessee had received interest income from fixed deposits kept with Nationalized Banks. The ITAT Pune Bench in para 5 has held as under :

*“5. With regard to this issue, the Ld. AR of the assessee at the time of hearing submitted that ground No.1 is already decided in favour of the assessee by the decision of the Co-ordinate Bench of the Tribunal, Pune in ITA No.589/PUN/2016 for the assessment year 2012-13 in the case of ITO Vs. Sureshdada Jain Nagri Sahakari Patsanstha, therein, in Para 2 of the order, the issue is as under:*

*“2. The only grievance projected by the Revenue in its appeal is against the allowing of deduction u/s.80P of the Income Tax Act, 1961 (hereinafter also called as 'the Act') in respect of interest earned by the assessee society from State Bank of India which was denied by the Assessing Officer.”*

*Thereafter, the Tribunal has held as follows:*

*“4. We have heard both the sides and perused the relevant material on record. It is observed that the ld. CIT(A) allowed the claim of deduction u/s.80P by following the order passed by the Tribunal in the case of Shivneri Nagari Sahakari Patsanstha Ltd. (supra). The ld. AR placed on record a copy of the another order of the Pune Bench dated 19-08-2015 in the case of Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014) (to which one of us,*

*namely, the ld. JM is party) in which similar deduction has been allowed. The Pune Bench of the Tribunal in the case of Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) has discussed the contrary views expressed by the Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann 309 (Kar.) allowing the deduction u/s. 80P on interest income and the Hon'ble Delhi High Court in Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110 DTR 89 (Delhi) not allowing deduction u/s.80P on interest income, earned from banks under similar circumstances. Both the Hon'ble High Courts have taken into consideration the ratio laid down in the case of Totgar's Cooperative Sale Society Ltd. 322 ITR 283 (SC). There being no direct judgment from the Hon'ble jurisdictional High Court on the point, the Tribunal in Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) preferred to go with the view taken in favour of the assessee by the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). In the absence of their being any change in the legal position prevailing on this issue after the passing of the order by the Pune Bench of the Tribunal in Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) and host of other orders reiterating the similar view, respectfully following the precedent, we uphold the impugned order in allowing deduction u/s.80P on the interest income”*

*Respectfully, following the aforesaid decision of the Co-ordinate Bench of the Tribunal, Pune, we set aside the order of the Ld. CIT(Appeals) and allow ground No.1 of the grounds of appeal of the assessee.”*

4. The issue before us is identical to the issue decided by ITAT Pune Bench in Sumitra Gramin Bigar Sheti Sahakari Pat Sanstha

Maryadit Mahaveer Path(supra) in ITA No.2476/PUN/2016 for A.Y. 2008-09(supra) i.e. interest income earned on fixed deposits. The Hon'ble Madras High Court in the case of Thorapadi Urban Co-operative Credit Society Ltd., Vs. ITO 296 Taxman 250 (Madras) vide order dated 10.10.2023 held that the assessee was eligible for deduction under section 80P(2)(d) of the Act on the Interest Received from Co-operative Banks. No direct decision of the Hon'ble Jurisdictional High Court has been brought to our notice. Therefore, respectfully following the above precedent and adopting the detailed reasoning above, we direct the Assessing Officer to allow deduction under section 80P(2) of the Act for the impugned income discussed in earlier para. Accordingly, grounds of appeal raised by the assessee are allowed.

4.1 Therefore, following the rule of consistency, assessee's appeal is allowed.

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

Order pronounced in the open Court on 8<sup>th</sup> March, 2024.

**Sd/-**  
**(S.S.GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 8<sup>th</sup> March, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.