

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.3697/Mum/2023
(A.Y. 2018-19)**

Kohinoor Industrial Premises Co-op Society Limited, Plot No.10, CTS No. 67, Dindoshi Village, Western Express Highway Goregaon East Maharashtra - 400063	Vs.	ITO, Ward 31(2)(2), Kautilya Bhavan, Bandra, Mumbai - 400 051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAA AK4970G		
Appellant	..	Respondent

Appellant by :	Kirit S. Sanghvi
Respondent by :	S. Arunkumar

Date of Hearing	27.02.2024
Date of Pronouncement	04.03.2024

आदेश / O R D E R

Per Amarjit Singh (AM):

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 11.07.2023 for A.Y. 2018-19. The assessee has raised the following grounds before us:

- “1. The learned CTT(A) [NFAC, Delhi] erred on facts and in law in disallowing Rs.22,92,110/- claimed as deduction under s 80P(2)(d) of the Act*
- 2. The learned CIT(A) [NFAC, Delhi] erred on facts and in law in confirming the order passed under s 154 of the Act by holding that there was no mistake apparent from the records*
- 3. The learned CIT(A) (NFAC, Delhi) erred on facts and in law in confirming the view of the CPC that the appellant did not correctly fill in Sch-VIA for claiming deduction under s 80P.*

Relief claimed: *The appellant be allowed deduction of Rs.22,92,110/- under s 80P(2)(d) of the Act.*

The appellant craves leave to add to, alter, amend or modify the ground(s) of appeal.”

2. Fact in brief is that the assessee is a cooperative society derived income from house property and income from other sources during the year under consideration. The assessee has filed return of income on 07.09.2018 declaring total income of Rs.25,54,640/-. The assessee cooperative society has also derived income by way of interest earned on deposit maintained with the cooperative bank, therefore, the assessee has claimed deduction u/s 80P(2)(d) of the Act to the amount of Rs.22,92,105/-. The CPC has not allowed the deduction as per order u/s 143(1) of the Act dated 31.05.2019 and assessed the total income at Rs.48,46,750/-. Therefore, assessee has filed rectification u/s 154 of the Act, however, the CPC Vide order dated u/s 154 of the Act dated 06.01.2020 has rejected the rectification application filed by the assessee stating that in the e-filed return of income the assessee has not correctly filed schedule VIA for claiming deduction u/s 80P of the Act.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee reiterating the facts as above reported by the CPC.

4. During the course of appellate proceedings before us the ld. Counsel filed paper book comprising copy of return filed and submitted that in the return of income filed, the assessee has claimed deduction u/s 80P of the Act. He also referred page no. 50 of the return of income showing that under schedule VIA the assessee has claimed he deduction of Rs.22,92,105/- as per section 80P of the Act wherein assessee has claimed deduction u/s 80P to the amount of Rs.22,92,105/-.

The ld. D.R could not controvert this fact the assessee has claimed the claim of deduction u/s 80P in the return of income filed by the assessee.

5. Heard both the sides and perused the material on record. The assessee is a cooperative society and derived income by way of interest on deposit maintained with cooperative bank and claimed deduction u/s 80P(2)(d) on the interest amount of Rs.22,92,105/-. The CPC u/s 143(1) of the Act disallowed the claim of deduction made u/s 80P(2)(d) of the Act. The provision of Sec. 80P(2)(d) of the Act which provide that where the gross total income of the assessee being a cooperative society includes income from by way of interest or dividend derived from the cooperative societies from its investment with any other cooperative society the whole of such income shall be deductible while computing the total income of the assessee. We have further gone through the copy of detailed return filed by the assessee on ITR-V placed at page no.1 to 58 of the paper book and noticed that at page no. 50 of the return of income under the head schedule VI-A deduction under chapter VIA was claimed at column no. 2(1) under the head 80P of Rs.22,92,105/-. The assessee has demonstrated from the return of income that it has filed claim of deduction and even in the computation of total income placed at page no.2 of the paper book assessee has claimed deduction under chapter VIA of the Act to the amount of Rs.22,92,105/-. After taking into consideration the above facts and evidences available on record we find that action of the CPC in disallowing the claim of deduction u/s 80P(2)(d) is not justified, therefore, we direct the AO to allow the claim of the deduction u/s 80P(2)(d) after verification of the material as discussed above in this order. Therefore, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 04.03.2024

Sd/-

Sd/-

(Kuldip Singh)
Judicial Member

(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 04.03.2024

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.