

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

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

**ITA No.3810/Mum/2023
(A.Y. 2018-19)**

Mahapalika Kshetra Madhyamik Shikshak Sahakari Pat Sanstha Maryadit (Co-operative Credit Society) 201/202 Anish Tower, Senapati Bapat Marg Matunga (West)- 400016	Vs.	ITO Ward 22(2)(1) Piramal Chambers, Mumbai - 400012
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAAAM1865G		
Appellant	..	Respondent

Appellant by :	Amit Bharadiya
Respondent by :	S. Arunkumar

Date of Hearing	29.02.2024
Date of Pronouncement	06.03.2024

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 25.08.2023 for A.Y. 2018-19. The assessee has raised the following grounds before us:

- “1. The action of the learned CIT (A) in disallowing the deduction u/s 80P(2) (a) (i) of Rs. 41,55,200 as claimed by the Appellant is erroneous and bad in law.*
- 2. The action of the learned CIT (A) of assessing the income from Interest on Fixed Deposit and Dividend Income of Rs. 41,55,200 u/s 80 P (2) (d) instead of section 80 P (2) (a) (i) is erroneous and bad in law.*
- 3. The action of the learned CIT (A) by not considering the ITAT, Mumbai order already decided in favour of the Appellant in A.Y.2014-15 on the same matter is erroneous and bad in law.*

4. *The appellant craves to leave, add, alter, amend and/or delete any grounds of appeal during the course of appeal.”*

2. Fact in brief is that return of income declaring total income of Rs. Nil was filed on 22.09.2018. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 23.09.2019. The assessee is a cooperative credit society and during the year under consideration it has derived income as interest income on investment and dividend from MDCC Bank (Co-operative Bank) to the amount of Rs.41,55,202/-. The assessee has claimed Rs.41,55,202/- as deduction u/s 80P(2) of the Act. The AO was of the view that provision of the IT Act did not extend the deduction to the income received from the investment made with the co-operative banks. The AO stated that vide Finance Act 2006 deduction from income of Co-operative banks as per provision of Sec.80P of the Act has been withdrawn by inserting of Sec.80P of the Act. The AO further stated that section 80P(4) provide that provision of Section 80P shall not apply to co-operative banks, therefore, the assessing officer has disallowed the claim of deduction u/s 80P(2)(d) 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.

4. Heard both the sides and perused the material on record. The assessee is cooperative credit society and it provide credit facility/loan to its members and collect deposits from its members. During the year under consideration the assessee society has received interest from Mumbai District Central Cooperative Bank to the amount of Rs.33,36,433/- and dividend of Rs.6,85,440/-. The assessee has claimed deduction u/s 80P(2)(d) of the Act. To claim deduction u/s 80P(2)(d) the income must have been earned by way of investment made with any cooperative society. We consider though the co-operative bank

pursuant to the insertion of sub-section (4) of Section 80P is no mere be entitled for claim of deduction u/s 80P of the Act, but however as a cooperative bank it still continued to be a cooperative society registered under the cooperative society Act therefore, any income by way of interest or dividends derived by the Co-operative Society from its investments with that cooperative bank would be entitled for claim of deduction u/s 80P(2)(d) of the Act. Therefore, we direct the AO to allow the claim of deduction to the assessee cooperative society in respect of interest dividend earned from investment made with the other Cooperative Society being the Co-operative Bank as discussed in this order. Therefore, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 06.03.2024

Sd/-

(Kuldip Singh)
Judicial Member

Place: Mumbai

Date 06.03.2024

Rohit: PS

Sd/-

(Amarjit Singh)
Accountant Member

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.