

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.1250/PUN/2023
Assessment Year : 2020-21

The Income Tax Officer,
Ward-2, Ahmednagar

... Appellant

Vs.

Mahesh Nagari Sahakari Patsanstha Ltd.,
1493, Bhandari Mangal Karyalaya,
Ashok Chowk, Sangamner,
Dist. Ahmednagar – 422605

PAN: AAAAM7240H

... Respondent

Assessee by : Shri Pramod S. Shingte

Respondent by : Shri R.Y. Balawade, Addl. CIT

Date of Hearing : 12-03-2024

Date of Pronouncement : 19-03-2024

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the Revenue emanates from the order of the National Faceless Appeal Centre (NFAC), Delhi dated 11-10-2023 for the Assessment Year 2020-21 as per the grounds of appeal appearing hereinafter.

The grounds of appeal are as follows:

- 1. That on the facts and circumstances of the case and in law, the Id. CIT(A) was not justified in allowing the deduction u/s 80P(2)(a)(i) of the Act, as the assessee claimed deduction u/s 80P in respect of the interest income from investment, which is not the operational income.*
- 2. That on the facts and circumstances of the case and in law, the Id. CIT(A) was not justified in allowing the deduction u/s 80P(2)(a)(i) of the Act, without proper verification of the facts as to how the investments made by the assessee with other cooperative banks generated the operational income of the assessee, considering the facts that the business operations of the assessee is to provide credit facilities to its members and accepts deposits from them.*

3. *For these and such other grounds as may be urged at the time of hearing, the order of the Id. CIT(A) may be vacated and that of the AO restored.*

2. In the grounds of appeal, the Revenue is aggrieved with the relief given to the assessee by the CIT(A) on the issue of deduction u/s 80P(2)(a)(i) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

3. We have heard the rival contentions and perused the material on record. We find that the Pune Tribunal has decided the similar issue in favour of assessee in an identical case in ITA No.388/PUN/2022 for A.Y. 2017-18, order dated 01.09.2022. The relevant paras are extracted as follows:

"2. The assessee is aggrieved by the denial of deduction u/s.80P in respect of interest of Rs.9,46,230/- earned from deposits kept with nationalised banks.

3. I have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of assessee. However, this issue is no more res integra by virtue of series of orders passed by the Pune Tribunal. The Pune Benches of the Tribunal in Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016) decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014) has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.) allowing deduction u/s. 80P on interest income and that of 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. Both the Hon'ble High Courts took into consideration the ratio laid down in the case of Totgar's Cooperative Sale Society Ltd. (supra). No direct judgment from the Hon'ble jurisdictional High Court on the point having been pointed out, the Tribunal in Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). I, therefore, overturn the impugned order on this score and allow the deduction."

4. In the aforesaid decision, the Tribunal relied on the decision of Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. vs. ITO (2015) 230 Taxman 309 (Kar) allowing deduction u/s 80P(2)(a)(i) of the Act on interest income in the identical facts and circumstances. In another decision of the Pune Bench in ITA No.1700/PUN/2017, dated 27.12.2021, it was held as follows:

“9. We heard the rival submissions and perused the material on record. Admittedly, the appellant is a Cooperative society formed under the provisions of Maharashtra Cooperative Societies Act, 1960 with the objective of accepting deposits and lending money to its members. The money which is not immediately required for the purpose of lending to the members is deposited with Bank of Baroda in the form of Fixed Deposit. The question is whether the interest so earned qualifies for exemption u/s. 80P(2)(a)(i) of the Act. The AO as well as the CIT(A) were of the opinion that the interest earned from third parties or non-members does not qualify for exemption u/s.80P. It is an admitted position that the interest so earned should be taxed as ‘income from other sources’ There is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon’ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon’ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon’ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon’ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon’ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon’ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann 309 (Kar.) and the Hon’ble Telangana and Hon’ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s.80P(2)(a)(i) of the Act. The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) has taken view in favour of the assessee following the judgment of Hon’ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Respectfully following the decision of the Coordinate Bench, we hold that the interest income earned on the investment of surplus money with banks is also eligible for exemption u/s.80P(2)(a)(i) of the Act. Thus, the grounds of appeal No. 1 & 2 stands allowed.”

5. In the aforesaid decision also, the Tribunal relied on another decision of Co-ordinate Bench of Pune in ITA Nos.559/560/PUN/2018, order dated 11.12.2018 which has also taken a view in favour of the assessee following the judgment of Hon’ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. vs. ITO (supra).

6. Therefore, these decisions clearly have extended the scope and ambit and interpretation of the word ‘profits and gains of business’ attributable to the activities of the assessee in a way that it has been considered when the assessee is in the business of providing credit facilities and earning interest

from its members. The basic premise of that fund arises from the said business activity of the assessee society. In the absence of that business, there would not have been any question of having surplus fund. Once that surplus fund is accumulated, those are given on investment for short term basis in nationalized banks, this activity was, therefore, held that not alien or foreign to the primary business activity of the assessee society. In view thereof, the Id. CIT(A) has rightly allowed the claim of assessee by relying on various judicial pronouncements. We, therefore, uphold the order of Id. CIT(A) and dismiss the grounds of appeal filed by the Revenue.

7. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open Court on this 19th day of March, 2024.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, the 19th March, 2024
GCVSR

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The concerned CIT, Pune
4. D.R. ITAT 'A' Bench
5. Guard File

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BY ORDER,

Sr. Private Secretary
ITAT, Pune.

1	Draft dictated on	12-03-2024	Sr.PS/PS
2	Draft placed before author	18-03-2024	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
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11	Date of dispatch of order		