

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 55/Kol/2023
Assessment Year: 2018-19

Janamangal Samabay Krishi Unnayan Samity Limited Dharmadasbar, Contai Purba Medinipur - 721401 [PAN : AABA]2517P]	Vs	Income Tax Officer, Ward - 27(1), Haldia
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Siddharth Agarwal, Advocate
Revenue by :	Shri Raman Garg, Addl. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 15/01/2024
घोषणा की तारीख /Date of Pronouncement: 08/04/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "Ld. CIT(A)") dt. 25/11/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal:-

"1. The deduction u/s 80P for whole of the profit of Rs. 65,16,054/ for business of banking/providing credit facility was not allowed as per order u/s 250 by the Ld. CIT appeal NFAC, of appellant assessee JANAMANGAL SAMABAY KRISHI UNNAYAN SAMITY LIMITED a Primary Agricultural Credit Cooperative Society registered under the West Bengal Cooperative Societies Act engage in the business of supporting agricultural development. As per order u/s 250 a proportion of this profit was allowed u/s 80P of Rs. 22,65,866/ by disallowing the balance amount of Rs. 42,50,188/ without allowing the deduction u/s SOP. The basis of proportion for allowance and disallowance of deduction u/s 80P was not clear to the assessee. According to the assessee cost and profit allocation should be based on allocation of fund to deposit investment and loan disbursement. Therefore assessee is completely disagreed with the opinion and order of the Ld. CIT appeal u/s 250 and preferred for appeal to Tribunal."

3. Brief facts of the case are that the assessee is a primary agricultural society regularly claiming benefit of deduction u/s 80P(2)(a)(i) of the Act. Case selected for limited scrutiny followed by validly serving notice u/s 143(2) and 142(1) of the Act. After considering the submissions filed by the assessee, the Id. Assessing Officer made certain observation regarding operational activities and correctness of deduction claimed u/s 80P(2)(a)(i) of the Act. The Id. Assessing Officer thereafter re-calculated the deduction disallowing the excess claim u/s 80P(2)(a)(i) of the Act at Rs. 46,32,263/-. Aggrieved, the assessee preferred appeal before the Id. CIT(A). During the course of appellate proceedings, remand report was called for. Copy of the same is available at page 19 to 25 of the impugned order and the net earning calculated by the Assessing Officer is Rs.62,96,054/- and income from godown rent is separately taxed at Rs.2,20,000/-. However, the Id. CIT(A) re-worked the deduction u/s 80P(2)(a)(i) of the Act giving reference to the average rate of interest paid and average rate of interest earned from the members. Relevant finding of the Id. CIT(A) is reproduced below:-

“6.10 As per the information provided by the appellant during the assessment proceedings and remand proceedings, the AO has reported that the appellant paid Rs.2,95,72,702/- to the members against the deposits made by them of Rs.49,25,00,000/-. The average rate of interest paid by the Society on collection of deposits is 6.005%. Whereas the interest earned from the members on advancing the loans of Rs.7,83,00,000/- is Rs. 1,14,16,844/- i.e., at the rate of 14.58%. The gross interest earned from the members is Rs. 67,15,422/- which is worked out with the difference between the interest received from members and interest paid to members. Apart from the above, from business of banking services like providing locker facilities and miscellaneous collections appellant collected an amount of Rs. 9,01,071/-. These receipts are eligible for the deduction u/s 80P(2)(a)(i) under

carrying of business of banking. Against the above mentioned two activities, the appellant has incurred a total expenditure under various heads other than interest as shown in the profit and loss account. Apart from this, Society kept some funds and the society must incur the expenditure in the, form of interest paid to the members (the funds unutilized as well as interest expenditure incurred against such funds are not ascertainable from the records). This amount would be very substantial. So, the same is determined through indirect method of reverse working by reducing the taxable interest and godown rent from the gross total income reported by the appellant in the return of income. The gross total income for the AY 2018-19 is Rs.65,16,05/- and the taxable income is Rs. 38,90,326/- (Please see next two Paragraphs: Rs. 36,70,326/- of taxable Interest + Rs. 2,20,000/- of godown rent). As per the above working assessee is eligible for a deduction of profits u/s. 80P(2)(a)(i) to the tune of Rs.22,65,866/-.

6.11 After setting off the interest expenditure paid to the members against the interest earned from the banks on investment of funds the net interest income is arrived as under:

(a) The total funds utilised out of collections made from the members:
Rs.38,77,93,395/-

(b) Interest earned from the banks on depositing the above funds:
Rs.2,69,57,320/-

(c) Interest cost to the Society @ 6.005% : Rs. 2,32,86,993/-

Difference between (b) and (c) above is Rs. 36,70,326/-

6.12 As reported by the AO in the remand report, appellant earned a total amount of Rs.2,20,000/- under the activity godown rent. The AO needs to consider it as income from house property or Income from other sources as per the information available on the record and allow the deductions if any as per the law. This amount is not considered to be eligible for the deduction u/s 80P(2)(a)(i) of the Act."

4. Aggrieved the assessee is now in appeal before this Tribunal.
5. The Id. Counsel for the assessee submitted that there are fundamental errors while making the re-computation and Id. CIT(A) failed to consider that the assessee had incurred expenditure mainly in the form of interest paid to the depositors. He also submitted that major portion of the interest on bank deposits is on account of the fund

which the assessee is required to be maintained in terms of Reserve Bank of India guidelines, NABARD guidelines and West Bengal Co-operative Societies Act. The assessee also placed a sheet showing computation of income and the eligible amount for deduction u/s 80P of the Act. Reliance was also placed on the decision of this Tribunal in the case of *Bhaintgarh Nachinda Samabay Krishi Unnayan Samity Limited vs. ITO in ITA No. 619/Kol/2022; Assessment Year 2018-19, order dt. 23/06/2023*.

On the other hand, the Id. D/R vehemently argued supporting the orders of the lower authorities.

6. We have heard the rival contentions and perused the material placed before us. Quantum of deduction u/s 80P(2)(a)(i) of the Act is in dispute before us. Admittedly, assessee is primary agricultural society engaged in business of providing credit facilities, which includes mobilization of deposits, majorly collected from its members. Assessee in the ITR has claimed deduction u/s 80P(2)(a)(i) of the Act at Rs.65,16,054/-. While calculating the said deduction, the assessee included the income from house property i.e., rental income as part of the income eligible for deduction u/s 80P. The Id. Assessing Officer denied deduction to the extent of Rs.46,32,263/-. Thereafter, during the appellate proceedings, even though remand report was called for and income eligible u/s 80P of the Act was computed by the Assessing Officer at Rs.62,96,054/-, however, the Id. CIT(A) re-worked out the calculation and confined the deduction u/s 80P(2)(a)(i) of the Act at

Rs.22,65,866/- as against Rs.65,16,054/- made by the Assessing Officer.

6.1. Assessee has filed a computation sheet and also the calculation of deduction u/s 80P of the Act. First thing that we observe is that income from house property of Rs.2,20,000/- cannot be held to be eligible for deduction u/s 80P of the Act as it is not an activity covered under the provisions of Section 80P(2)(a)(i) of the Act. Considering the same, Rs.2,20,000/- has to be assessed under the head income from house property and after allowing the standard deduction of Rs.66,000/-, the remaining amount of Rs.1,54,000/- has to be taxed as income from house property.

6.1.1. Now, coming to the operational activities of the society we find that the gross receipts include interest received from banks other than co-operatives banks and ear-marked funds and the same are as under:-

1.	Interest on Investment in Fixed Deposit BANDHAN BANK	Rs. 74,82,771.00
2.	Interest on Savings A/c with ORIENTAL BANK COMMERCE	Rs.3,95,548.00
3.	Interest on Current A/c with HDFC BANK	Rs. 2,542.49
4.	Interest on Savings A/c with BANDHAN BANK	Rs. 45,954.00
5.	Interest on Investment in Fixed Deposit AXIS BANK	Rs. 11,48,910.00
6.	Interest on Savings A/c with AXIS BANK	Rs. 1,08,042.00
7.	Interest on Savings A/c with P.N.B.	Rs. 1,364.00
8.	Interest on Investment in POST OFFICE	<u>Rs. 60,000.00</u>
	TOTAL	<u>Rs. 92,45,131.49</u>

ROUNDED OFF : Rs. 92,45,131/-

6.1.2. Perusal of the audited financial statements indicate that the assessee first borrows the funds from its members and then utilizes such funds for the credit facilities and also to deposit with banks as FDRs. For the funds borrowed from members, assessee has to pay interest to its members. Therefore, against the interest earned from bank deposits (other than the co-operative banks and ear-marked funds), the assessee is eligible for deduction of the interest paid to its members. Along with the interest expenditure, there are certain incidental expenditure also. Considering the rate of interest of 6.005% which is cost to the society, we find that the assessee deserves deduction of Rs.78,98,297/- against the interest income from banks at Rs.92,45,131/-. This leaves us with surplus of Rs.14,25,834/- being the interest from banks not eligible for deduction u/s 80P(2)(a)(i) of the Act. Further against the said amount of Rs.14,25,834/-, assessee deserves to get deduction of administrative expenses and the same is considered to be reasonable at 15%, considering the indirect expenditure incurred during the year *vis-à-vis* the gross receipts and the same is worked out at Rs.13,86,770/- (15% of bank interest of Rs.92,45,131/-). This leaves us with net income of Rs.39,064/- which is not eligible for deduction u/s 80P(2)(a)(i) of the Act.

6.2. To conclude, out of the total claim of deduction u/s 80P(2)(a)(i) of the Act made by the assessee at Rs.65,16,054/-, the same has to be reduced by the rental income which needs to be taxed as the income from house property at Rs.2,20,000/- and further to be reduced by the

net interest income from banks deposits (not related to the primary activity carried out by assessee society) at Rs.39,064/- not being part of the operational activities, leaving behind the balance amount of Rs. 62,56,990/-. Accordingly, finding of the Id. CIT(A) is set aside and claim of deduction u/s 80P(2)(a)(i) of the Act is restricted at Rs.62,56,990/- only.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 8th April, 2024 at Kolkata.

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 08/04/2024

SC SP

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata