

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Shri Waseem Ahmed, Accountant Member  
And Ms. Madhumita Roy, Judicial Member**

**ITA No. 960/Ahd/2023  
Assessment Year 2020-21**

Mushahid Vikas Co-Op Credit Society Limited, Badarpur, At Badarpur, PO Badarpur, Ta. Vadnagar, Mehsana PAN: AACAM2638K (Appellant)	Vs	The ITO, Patan (Respondent)
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**Assessee by: Shri Nitesh Thakkar, A.R.  
Revenue by: Shri V.K. Mangla, Sr. D.R.**

Date of hearing : 21-02-2024  
Date of pronouncement : 10-04-2024

**आदेश/ORDER**

**PER : WASEEM AHMED, ACCOUNTANT MEMBER:-**

This is an appeal filed against the order dated 29/09/2023 passed by National Faceless Appeal Centre(NFAC), Delhi for assessment year 2020-21.

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

*"1. The Ld. CIT(A) has erred in confirming disallowance, for an amount of Rs. 6,02,840 under Section 80P(2)(1) of the Income Tax Act, 1961. It is submitted that on the facts and circumstances of the case, the appellant has rightly claimed that interest received from the Nationalized Banks or others Saving Account under section 80P(2)(i) of the Act. It is submitted that the same be held now and disallowance be deleted.*

*2. Without prejudice to the above, it is submitted that if the aforesaid interest received from the Nationalized bank is not allowable u/s 80P of the Act and taxable u/s 50 of the Act, then proportionate expenditure incurred u/s 57 of the Act must be allowed as a deduction. It is submitted that the same be allowed now.*

*3. The Ld. CIT(A) has erred in non-granting the basic deduction u/s 80P(2)(c) of the Act of Rs 50,000/- in as much as the appellant is a co-operative society and is entitled for such basic deduction. It is submitted that the same be granted now.*

*4. The order passed by the Id. CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.*

*5. Your appellant craves leave to add, alter, and/or to amend all or any of the grounds before the final hearing of the appeal."*

3. The only issue raised by the assessee is that the learned CIT-A erred in confirming the order of the AO by sustaining the disallowance of the deduction claimed by the assessee under section 80P(2)(d) of the Act with respect to the interest income from the Nationalized banks.

4. The facts in brief are that the assessee in the present case is a co-operative society and engaged in the business of providing credit facilities to its members. The assessee in the year under consideration, besides the income by way of interest from the members, has also shown interest income on the deposits made with nationalized banks amounting to ₹ 6,92,840.00 only. The assessee on such interest income claimed deduction under section 80P(2)(d) of the Act. However, the AO was of the view that such interest income was not eligible for deduction under section 80P(2)(d) of the Act as the same is not

arising from the deposits with the co-operative societies. On appeal, the learned CIT-A upheld the order of the AO.

5. Being aggrieved by the order of the learned CIT-A, the assessee is in appeal before us.

6. The learned AR before us with respect to interest income from the nationalized bank amounting to Rs. 6,29,840.00 did not advance any arguments but requested the deduction of corresponding expenses. The Id. AR also sought a deduction of ₹ 50,000 under section 80P(2)(c) of the Act.

7. On the contrary, according to the Id. DR, the provisions of Act do not extend to the deduction with respect to the interest received from the investments made with Nationalized banks. The learned DR vehemently supported the order of the authorities below.

8. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the interest income derived by the assessee society from investment with nationalized bank is neither qualified under s. 80P(2)(a)(i) of the Act nor under s.80P(2)(d) of the Act. Thus, the assessee is not entitled for deduction for interest derived from the nationalized bank. But we find force in the alternative claim of the assessee for allowance of pro-rata expenditure against the interest income from investment in nationalized bank. Likewise, we also note that assessee is also eligible for deduction to the tune of ₹ 50,000.00 under section 80P(2)(c) of the Act. In holding so, we draw support and guidance from the order of this tribunal in the case of Kherava Co-operative

Credit Society Limited Vs. ITO in ITA No. 2704/AHD/2015 vide order dated 11-02-2016 wherein it was held as under:

"9. From going through the assessment order, we find that assessee has earned income from interest and commission at Rs.5,48,517.00 from following :-  
S.S.N.Ltd. Interest 3,98,082/-  
U.G.V.C.L. Interest 41,836/-  
SBI interest 1,08,312/-  
UGVCL Commission 3,287/-  
Total 5,48,517/-

Certainly from the above details, we find that the major portion of income is earned from Govt. securities which too are not of short term nature. Further during the course of assessment proceeding assessee himself has given an alternate option to the Assessing authority to treat the income from interest and commission at Rs.5,48,517/- as income from other sources and the same is reproduced below :-

3. Alternatively if your office does not agree with the decision of Jafari Momin Co-op Credit Society Ltd. and decide to follow Apex court decision of Totagaer co-op, sale society Ltd, we reiterate that the decision is regarding disallowance for deduction u/s.BQP only. Proposal of your office to consider gross receipts of interest income on investment as taxable income is incorrect income on investment is considered as income from other sources, deduction u/s. 57 is available in respect of expenses incurred to earn investment income. As there is no direct nexus of expense attributable to earn investment income, proportionate expenses incurred to earn interest income on investment should be allowed. The working is as under.-

Sr.No	particular	Amount
1	Gross Receipt as per P&L a/c.	10307727.00
2	Gross income as per Computation of income	4072007.00
3	Expense claimed from gross receipts (1-2)	6235720.00
4	Interest on investments, Commission . income considered not eligible for deduction u/s.8QP.	548517.00
5	Proportionate expenses available as deduction u/s.57 of the I. T. Act. ...	
	548517*(6235720/10307727)* "	331828.00-
6.	Income from other sources (4-5)	216689.00

Out of above income, deduction u/s 80P(2)(c) of Rs.50000/- is available and so net taxable income will be of Rs. 156689/- only. If the interest income, on investment is assumed as income from other sources addition in returned income will be Rs.156689/-.

We reiterate that above working is given only with reference to your proposal to disallow interest & commission income by applying S.C. decision in case of The Totagar Co-op. Sales Society Ltd. which we are not accepting in our case as the facts are different.

This alternate submissions made by the assessee during the assessment proceedings was duly accepted by the Assessing Officer however he did not allow deduction u/s 80P(2)(c) of the Act for Rs.50,000/-.

10. From going through the alternate submissions made by the assessee we find that major portion of interest income is from government securities and are not in the nature of short term deposits. Therefore, the facts of the case are clearly distinguishable from the facts discussed in the case of Totagars Co-op. Sale Society Ltd. vs. ITO (supra) and that of co-ordinate bench in the case of Jafari Momin Vikas Co-op. Credit Society Ltd. (supra) as well as in the case of Dhanalaxmi Credit Co-op. Society Ltd. vs. ITO (supra). This interest income is on investments not of short term nature except bank interest which too includes interest on Fixed Deposits. In these circumstances, we are of the view that as the assessee suo moto has given a proposition of taxing the interest and commission income on investments to be taxed u/s 56 of the Act and has also shown that proportionate expenses of Rs.3,31,828/- have been incurred to earn the above income and the same has duly been accepted by the assessing authority, so we find it justified that Assessing Officer has rightly taxed the interest income of Rs.2,16,689/- as income from other sources. However, deduction u/s 80P(2)(c) ought to have been allowed to the assessee as section 80P(2)(c) reads as under :-

*Section 80P(2)(c)*

*(c) in the case of a co- operative society engaged in activities other than those specified in clause (a) or clause (b) (either independently of, or in addition to, all or any of the activities so specified), so much of its profits and gains attributable to such activities as 1 does not exceed,-*

*(i) where such co- operative society is a consumers' co- operative society, one hundred thousand rupees; and*

*(ii) in any other case, fifty thousand rupees.*

*Explanation.- In this clause, " consumers" co- operative society" means a society for the benefit of the consumers;]*

*From going through the above provisions it is very clear that the assessee is eligible for deduction of Rs.50,000/- under section 57 of the Act and the same should have been allowed by the Assessing authority."*

8.1 Respectfully following the order of this tribunal discussed above, we hold that the amount of interest income from the National bank is not eligible for deduction but while disallowing the deduction with respect to such interest income, the benefit of corresponding expenses incurred by the assessee should be allowed. Likewise, the assessee is also eligible for a deduction of ₹ 50,000 under section 80P(2)(c) of the Act in pursuance to the order of the ITAT discussed above. Hence the ground of appeal of the assessee is partly allowed.

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

Order pronounced in the open court on 10-04-2024

**Sd/-**  
**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTNAT MEMBER**

**Ahmedabad : Dated** (True Copy) **10/04/2024**  
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