

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.433/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Shri T.S. Nagari Sahakari Patsanstha Maryadit, 001, At Post Shinoli, Dist. Pune 410 516, Maharashtra PAN : AADAS3746D	Vs.	ITO, Ward-10(1), Pune.
Appellant		Respondent

Assessee by : Shri Premchand C. Patil &  
Shri Yuvraj Bhandare  
Revenue by : Shri Arvind Desai

Date of hearing : 15.04.2024  
Date of pronouncement : 15.04.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 23.12.2023 for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is a Co-operative credit society engaged in providing credit facilities to its members. The Return of Income for the assessment year 2018-19 was filed on 22.08.2015 declaring total income of Rs.Nil after claiming exemption u/s 80P(d)(a)(i)/80P(2)(d) of the Income Tax

Act, 1961 ('the Act') of Rs.26,73,789/- and offered the income of Rs.30,350/- to tax. The case was selected for Limited Scrutiny to examine the (i) Investments/Advances/Loans and (ii) Deduction from total income under Chapter VI-A. The assessment was completed by the Assessing Officer vide order dated 02.03.2021 passed u/s 143(3) r.w.s.143(3A) & 143 (3B) of the Act determining total income at Rs.9,70,022/-. While doing so, the Assessing Officer had brought to tax the interest earned on FDs with other co-operative banks holding that the said interest does not qualify for deduction u/s 80P(2)(a)(i) of the Act.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the Assessing Officer.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. It is submitted before me that the issue is decided in favour of the assessee by placing reliance on the several decisions of the Tribunal as well as the decision of the Co-ordinate Bench of this Tribunal in the case of Sai Prerana Gramin Bigarsheti Sahakari Pat Sanstha Maryadit Vs. ITO and others in ITA No.1431/PUN/2018

and others dt. 03.07.2019, copy placed at page 7 to 14 of the paper book.

6. On the other hand, ld. Sr. DR placing reliance on the orders of the lower authorities submits that no interference is called for.

7. I heard the rival submissions and perused the material on record. The issue in the present appeal relates to the eligibility of the assessee for exemption u/s 80P(2)(a)(i) or u/s 80P(2)(d) of the Act. It is an admitted fact that the appellant is a cooperative society engaged in the business of providing credit facilities to its members and accepting deposits from its members. It does not enjoy any license to carry on the business of banking from Reserve Bank of India. Therefore, as held by the Hon'ble Supreme Court in the case of PCIT vs. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., 454 ITR 117 (SC) that the assessee is eligible for deduction u/s 80P(2)(a)(i) of the Act. Reliance in this regard can also be placed on the decision of the Hon'ble Bombay High Court in the case of PCIT vs. Quepem Urban Co-operative Credit Society Ltd., 438 ITR 631 (Bom.).

8. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(a)(i) in respect of interest income

earned by a cooperative society from the schedule banks, 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.com 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 371 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. Similar view has been taken by the Hon'ble Calcutta High Court in the case of PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta) and the Hon'ble Madras High Court in the case of Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras). 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) 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). Following the decision of the Coordinate Bench of the Tribunal, I am of the considered opinion that the interest income earned on fixed deposits with cooperative bank/scheduled bank partakes character of the business income, which is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, I direct the Assessing Officer to allow the exemption

u/s.80P(2)(a)(i) and section 80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

9. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 15<sup>th</sup> day of April, 2024.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 15<sup>th</sup> April, 2024.  
*Satish*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.