

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH :NAGPUR [VIRTUAL HEARING]
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.54/NAG./2023
Assessment Year 2014-2015

Asthavinayak Nagari Sahakari Path Sanstha Maryadit Benoda Shahid, A/P Benoda Shahid TQ. Warud Dist. Amravati (MS) PIN - 444 601 PAN AABTA3563B	vs.	The Income Tax Officer, Ward-1, Saturna, Amravati – 444 601. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Mahavir Atal, C.A.
For Revenue :	Shri Abhay Y. Marathe

Date of Hearing :	22.03.2024
Date of Pronouncement :	16.04.2024

ORDER

This assessee’s appeal for assessment year 2014-15, arises against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No. ITBA/NFAC/S/250/2021-22/1042287596(1), dated 31.03.2022, involving proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short “the Act”).

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *“The Ld AO erred in disallowing deduction u/s.80P(2)(a)(i) of interest earned on deposits of idle funds made with nationalized banks. The Ld AO himself observed in para 4 of his order that the assessee is exclusively engaged in carrying on the business of banking or providing credit facilities to its*

members. Assessee therefore fully entitled for deduction u/s. 80P(2)(a)(i) of the income tax act, as investment of idle funds in bank is a part and parcel of its business.

- 2. The Ld AO grossly erred on making disallowance relying upon the decision of Honorable supreme court in the case of Totagars Co-operative sales society Ltd, whereas the facts and circumstances of the case in hand is apparently distinguishable.*
- 3. The Ld AO grossly erred in appreciating the fact that the co-operative societies engaged in business in banking are statutorily required to invest its funds in nationalized banks.*
- 4. The appellant craves leave to add, amend, alter, modify, delete any of the grounds.”*

3. The sole issue herein which arises for the tribunal's apt adjudication herein is that of correctness of both the learned lower authorities action disallowing assessee's sec.80P deduction claim of Rs.10,11,031/- representing interest income realized from parking of alleged surplus funds in nationalized bank(s) viz., Bank of Baroda, Central Bank of India and IDBI Bank involving varying sums. Needless to say, both the learned lower authorities have treated the same to be income from "other" sources u/sec.56 of the Act since not derived from credit facilities provided to members in the regular course of business.

4. Mr. Marathe vehemently argued in light of Totagars Co-operative Society Ltd. vs. ITO 322 ITR 283 (SC) that such an

interest income is not eligible for the impugned deduction. I notice in this backdrop that the instant issue is no more *res integra* in light of The Vaveru Co-operative Rural Bank Ltd., vs. CCIT [2017] 396 ITR 371 (AP) that interest income(s) derived from such nationalized/other bank(s) also qualifies for sec.80P deduction. Faced with this situation, I accept the assessee's instant sole substantive grievance in principle and leave it open for the learned Assessing Officer to finalise his consequential computation in very terms. Ordered accordingly.

5. Delay of 266 days in filing of the instant appeal is condoned as per assessee's solemn averments in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

6. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 16.04.2024.

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 16th April, 2024

VBP/-

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1.	The appellant
2.	The respondent
3.	The Pr. CIT, Nagpur concerned
4.	D.R. ITAT, "SMC" Bench, Nagpur.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches, Pune.