

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.397/PUN./2024
Assessment Year 2017-2018

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| Maulikripa Nagari Sahakari Patsanstha Maryadit, Pune Saswad Rd., Wadki, Tal- Haveli, Dist – Pune. PIN – 412 308 PAN AABAM2463P | vs. | Income Tax Officer, Ward 14(4), Aaykar Sadan, Bodhi Towers, Salisbury Park, Gultekdi, Pune – 411 037. Maharashtra. |
| (Appellant) | | (Respondent) |

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| For Assessee : | Shri M.R. Bhagwat |
| For Revenue : | Shri Manish Mehta |

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| Date of Hearing : | 22.03.2024 |
| Date of Pronouncement : | 17.04.2024 |

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2017-18, arises against the Addl./JCIT(A)-2, Jaipur, Jaipur's Din and Order No. ITBA/APL/S/250/2023-24/1059356757(1), dated 04.01.2024, 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 learned CITA NFAC erred in dismissing the appeal on grounds of limitation even though the assessee had filed the appeal late only by 5 days and the delay was for a reasonable cause.*

- 2) *The case may be restored to the file of the CITA NFAC to be decided on merits.*
- 3) *The learned CITA NFAC erred in sustaining an addition of Rs.2,45,7797- being interest earned on Fixed Deposits with Bank of Maharashtra which were investments made during the course of business of providing credit facility to its members and eligible for deduction u/s 80P(2)(a)(i).*
- 4) *The learned CITA NFAC erred in sustaining the addition of Rs.1,15,8477- being commission earned from Maharashtra State Electricity Distribution Co. Ltd. without allowing the statutory deduction of Rs.50,000/- u/s 80P(2)(c)(ii).*
- 5) *The above additions be deleted and the society's total income be reduced to that extent.*
- 6) *Such other orders be passed as deemed fit and proper.*
- 7) *The appellant prays for leave to add to, amend or modify its grounds of appeal and lead evidence.”*

3. Coming to the assessee's first and foremost substantive grounds that the CIT(A) has erred in law and on facts in not condoning 05 days delay, found to be no more *res integra* 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. The impugned delay of 05 days in filing of the assessee's lower appeal condoned therefore.

4. Next comes the assessee's third substantive grounds claiming sec.80P(2)(a)(i) deduction of interest income of Rs.2,45,779/- derived from parking of surplus funds in the Bank of Maharashtra. Learned DR placed strong reliance on Totagars Co-operative Society Ltd. vs. ITO 322 ITR 283 (SC). It is noticed in this factual 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) wherein their lordships' have duly considered the same before granting sec.80P deduction to the assessee *qua* similar interest income derived from nationalized/public sector bank(s). The assessee succeeds in its instant third substantive ground in very terms. Necessary computation shall follow as per law.

5. Lastly comes the assessee's 4th substantive ground claiming sec.80P(2)(c)(ii) deduction regarding commission earned from Maharashtra State Electricity Distribution Co. Ltd., [in short "MSEDCL"] is also found to be squarely covered as per this tribunal's recent coordinate bench(es) order in Bhagyalaxmi Nagari Sahakari Path Sanstha Meryadit vs. ITO ITA.Nos.705 & 706/PUN./2021 decided on 14.03.2022 has allowed the very nature of the commission as under :

"5. The first item is the commission income from MSEDCL amounting to Rs.60,363/-. The assessee has contended in its written submissions that similar issue came up for consideration before the Pune Tribunal in Banganga Nagri Sah. Patsanstha Ltd. (ITA No.873/PUN/2014) and the Tribunal, vide

its order dated 31-03-2016, allowed the deduction on commission of collection of MSEDCL bills by holding that it was from the business activity carried on by the assessee. The Tribunal, for allowing such deduction in *Banganga Nagri Sah. Patsanstha Ltd. (supra)*, in turn, relied on another order passed by the Tribunal in the case of the same assessee for the assessment years 2010-11 and 2011-12. In view of the above order passed by the Tribunal, it is clear that the activity of earning commission from collection of bills relating to MSEDCL has been held as eligible business activity and resultantly allowed granted deduction u/s.80P. The ld. DR fairly conceded the position but relied on the impugned orders on this score. In view of the fact that commission income on collection of bills from MSEDCL has been made eligible for deduction u/s.80P(2)(a) on the ground of the same being in the nature of business activity, I allow the assessee's claim in respect of similar commission income of Rs.60,363/-.

6. The other point raised in this appeal is against the denial of deduction u/s.80P(2) on the interest income of Rs.20,000/- on security deposit which was parked with MSEDCL for carrying on the business of collection of MSEDCL bills. In view of the fact that the activity of collection of bills has been held by the Tribunal in *Banganga Nagri Sah. Patsanstha Ltd. (supra)* as a business activity, whose income is eligible for deduction u/s.80P(2), the instant interest income of Rs.20,000/- on

security deposit with MSEDCL for carrying on the business of bill collection, which is a part and parcel of the overall activity of such business, cannot be accorded a different character. I, therefore, order to grant deduction on interest on security deposit with MSEDCL amounting to Rs.20,000/-.

A.Y. 2018-19 :

7. *The only issue raised in this appeal is against the denial of deduction u/s.80P(2)(a)(i) on the commission income amounting to Rs.2,36,160/- earned from collection of MSEDCL bills. The AO denied the deduction by following his own view for the earlier years, which got echoed by the ld. CIT(A).*

8. *Having regard to the facts of the case, it is seen that the issue under consideration about earning of commission from MSEDCL bill collection is identical to the one considered above for the immediately preceding assessment year 2017-18. Following the view taken for such earlier year, I order to allow deduction u/s.80P(2)(a) on the commission income earned from MSEDCL bill collection.”*

6. I adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee's instant 4th substantive ground in very terms. The Revenue's vehement arguments on the impugned disallowance stands rejected therefore.

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

Order pronounced in the open Court on 17.04.2024.

Sd/
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 17th April, 2024

VBP/-

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

//By Order//

//True Copy //

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