

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

AND

SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER

ITA NO. 3905/MUM/2023 (A.Y: 2018-19)

Maharashtra Rajya Sahakari Duddh Mahasangh Maryadit Mahanand Dairy, Western Express Highway Goregaon (East), Mumbai – 400065 PAN: AAATM4973E	v.	Income Tax Officer – 41(4)(2) Kautilya Bhavan Bandra Kurla Complex, Bandra (E) Mumbai - 400051
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Haridas Bhatt
Department Represented by	:	Smt Mahita Nair
Date of conclusion of Hearing	:	16.04.2024
Date of Pronouncement	:	19.04.2024

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal filed by the assessee is preferred against the order dated 18.09.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y. 2018-19.

2. The sum and substance of the grievance of the assessee is that the Ld. CIT(A) / National Faceless Appeal Centre, Delhi, erred in not

allowing the claim of deduction under section 80P(2)(d) of Income-tax Act, 1961 (in short "Act").

3. Briefly stated the facts of the case are that the assessee is a cooperative society who filed its return of income on 13.10.2018 declaring total income at ₹.6,64,06,468/- and claimed the entire income as deduction under section 80P(2)(d) of the Act. The return was selected for scrutiny assessment and accordingly, statutory notices were issued and served on the assessee. The assessee was specifically asked to justify its claim of deduction under section 80P(2)(d) of the Act. Assessee filed a detailed reply which did not find any favour with the Assessing Officer and was of the firm belief that the assessee is not eligible for the said claim of deduction. According to the Assessing Officer, the interest received from the investments with the cooperative bank is not eligible for deduction under section 80P(2)(d) of the Act.

4. Assessee carried the matter before the Ld. CIT(A) but without any success.

5. Before us, counsel for the assessee draw our attention to the order of the First Appellate Authority in A.Y. 2017-18 in which year also the Assessing Officer denied the claim of deduction under section

80P(2)(d) of the Act but the Ld. CIT(A) allowed the claim and the revenue has not filed any appeal against the order of the Ld. CIT(A). Hence the issue has attained finality.

6. We have given a thoughtful consideration to the orders of the authorities below. We have also considered the order of the Ld. CIT(A) for the A.Y. 2017-18. We find that identical grievance was raised before the Ld. CIT(A) on identical set of facts and after considering the facts and the submissions and drawing support from various judicial decisions, the Ld. CIT(A) allowed the claim. It is true that revenue has not filed any appeal against the order of the Ld. CIT(A) which means the issue has attained finality in the previous assessment year. On finding parity of facts, we do not find any reason why the similar claim of deduction under section 80P(2)(d) of the Act should not be allowed during the year also. Therefore, we direct the Assessing Officer to allow the impugned claim of deduction.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 19th April, 2024.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai / Dated 19.04.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum