

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.467 & 468/PUN/2024

निर्धारण वर्ष / Assessment Years: 2014-15 & 2017-18

Kai Devendra Sarda Nagari Sahakari Patsanstha Maryadit, Tryamba Keshwar, Renuka Housing soc., Trimbakeshwar, Patil Galli, Trimbakeshwar Nashik 422 101 Maharashtra PAN : AAAAK4418P	Vs.	ITO, Ward-1(2), Nashik
Appellant		Respondent

Assessee by : Smt. Deepa Khare  
Revenue by : Shri Arvind Desai

Date of hearing : 18.04.2024  
Date of pronouncement : 22.04.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

These are the two appeals filed by the appellant directed against the separate orders of the National Faceless Appeal Centre, Delhi ['NFAC'] commonly dated 18.01.2024 for the assessment years 2014-15 & 2017-18.

2. Since identical facts and issues are involved in these appeals, I proceed to dispose the same vide this common order.

3. Brief facts of the case for the A.Y. 2014-15 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 2014-15 was filed on 27.09.2015 declaring total income of Rs.Nil after claiming exemption of interest income of Rs.21,50,326/- earned from Fixed Deposits with Bank of Maharashtra u/s.80P(2)(a)(i) of the Income Tax Act, 1961 ('the Act'). Initially, the assessment was completed by the Assessing Officer vide order 26.07.2016 determining total income at Rs.70,503/-. Thereafter, the AO vide order dated 27.09.2019 passed u/s 143(3) r.w.s.263 of the Act, determined total income of the appellant at Rs.22,20,829/- as against the income of Rs.70,503/- assessed u/s.143(3) of the Act.. While doing so, the Assessing Officer had brought to tax the interest earned on Fixed Deposits with Bank of Maharashtra holding that the said interest does not qualify for deduction u/s 80P(2)(a)(i) of the Act.

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

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

6. The Id. AR submitted before me that the issue no more *res integra* by virtue of several decisions passed by the Pune Benches of the Tribunal in favour of the appellant(s).

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

8. 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. 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.).

9. 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 scheduled 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) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

10. Since I have held in the foregoing para that the appellant is entitled to exemption u/s. 80P(2)(a)(i) of the Act, the Grounds of appeal No.3 raised by the appellant does not survive and, therefore, dismissed as such.

11. The facts stated in ITA No.467/PUN/2024 are identical even in appeal bearing ITA No. 468/PUN/2024. Therefore, the finding given in ITA No.467/PUN/2024 equally holds good for the appeal ITA No. 468/PUN/2024. Thus, the orders of the lower authorities are hereby set-aside allowing exemption u/s.80P(2)(a)(i) of the Act.

12. In the result, both the appeals of the appellant stands partly allowed.

Order pronounced on this 22<sup>nd</sup> day of April, 2024.

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

पुणे / Pune; दिनांक / Dated : 22<sup>nd</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.