

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.49/PUN/2024

Assessment Year : 2017-18

Ruby Hall Clinic Karmchari Sahakari Patsanstha Maryadit, 40, Sasoon Road, Pune HO, Haveli, Pune- 411 001 Maharashtra PAN : AAAAR9852L	Vs.	ITO, Ward-7(1), Pune
Appellant		Respondent

Assessee by : Shri Randeep Sharma &
Shri Deepak Sasar
Revenue by : Shri A.K. Mahala
Date of hearing : 24.04.2024
Date of pronouncement : 25.04.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of CIT(A) in National Faceless Appeal Centre, Delhi (NFAC) dated 18.12.2023 for the assessment year 2017-18.

2. Brief 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 2017-18 was filed on 28.10.2017 declaring total income of Rs.Nil after claiming

deduction under Chapter VIA at Rs.79,89,208/-. The case was selected for scrutiny under CASS for verification of 'Deduction under Chapter VIA & Investments/advances/loan'. The assessment was completed by the Assessing Officer u/s.143(3) vide order dated 30.11.2019 accepting the returned income at Rs. NIL allowing assessee's claim of deduction u/s.80P amounting to Rs.79,89,208/-. Lateron, on examination of record, the Pr.CIT, Pune-4 vide order dated 28.03.2022 in exercise of powers vested with him u/s.263 had set aside the assessment order with a direction to redo the assessment as he formed opinion that the AO failed to examine the taxability of the interest income of Rs.17,42,124/- earned by the appellant from the surplus funds kept with Pune District Central Cooperative Bank. In the order passed pursuant to order u/s.263, the AO disallowed the claim of exemption of interest income u/s.80P.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned order confirmed the order passed by the Pr.CIT on the ground that the interest income earned by the appellant society is not the income from the regular course of business.

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

5. The ld. AR submitted before us 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).

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. 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.).

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 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, we 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, we 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.

9. In the result, the appeal of the assessee is allowed.

Order pronounced on this 25th day of April, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 25th 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, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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