

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

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

आयकर अपील सं. / ITA No.633/PUN/2024
निर्धारण वर्ष Assessment Year : 2015-16

CEAT Limited (Tyre division) Employees Coop. Credit Society Limited, 82, MIDC, Satpur, Nashik 422 007, Maharashtra PAN : AAAAC7277N	Vs.	ITO, Nashik
Appellant		Respondent

Assessee by : None
Revenue by : Shri Manoj Tripathi

Date of hearing : 02.05.2024
Date of pronouncement : 06.05.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Addl./JCIT(A)-2, Delhi dated 08.03.2024 for the assessment year 2015-16.

2. Briefly, the facts of the case are that the appellant is a Credit Cooperative Society registered under Maharashtra Cooperative Societies Act, 1960. It is engaged in providing credit facilities to its members. The Return of Income for the assessment year 2015-16

was filed on 15.09.2015 declaring Nil income after claiming exemption u/s.80P(2)(a)(i)/u/s.80P(2)(d) of the Income Tax Act, 1961 which was processed u/s.143(1). Thereafter, the case was selected for scrutiny under CASS. Against the said return of income, the assessment was completed by the Assessing Officer vide order dated 29.11.2017 passed u/s.143(3) of the Act determining total income at Rs.6,61,774/-. While doing so, the Assessing Officer had brought to tax the interest income of Rs.6,61,774/- earned on FDs kept with Nationalised banks and cooperative banks holding that the said interest does not qualify for deduction u/s 80P(2)(a)(i) of the Act.

3. Being aggrieved, an appeal was filed before the NFAC, who vide impugned dismissed the appeal of the appellant for non-prosecution.

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

5. When the appeal was called on, none appeared on behalf of the appellant despite due service of notice of hearing. After hearing the ld. DR and perusing the material on record, we proceed to dispose of the appeal *ex parte* qua the appellant.

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 ld. DR and perused the relevant 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 in respect of interest income earned from Nationalised banks/cooperative banks. We find this issue is no more *res integra* by virtue of several decisions of the Tribunal as well as the decision of the Co-ordinate Bench of this Tribunal in the case of Sai Prerana Gramin Bigarsheti Sahakari Pat Sanstha Maryadit Vs. ITO and others in ITA No.1431/PUN/2018 and others dt. 03.07.2019 allowing deduction u/s.80P.

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 Nationalised banks/cooperative 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 are 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) and section 80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

9. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 06th day of May, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 06th May, 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