

**THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI**

**SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**I.T.A. No.4406/Mum/2023**

**(A.Y. 2014-15)**

Ceat Employees Co-operative Credit Society Ltd Ground Floor C/o. Ceat Ltd, Bhandup Village Road, Bhandup West Mumbai 400078	Vs.	Income Tax Officer CPC ITO Ward 29(1)(2), Mumbai Kautilya Bhavan, Bandra Kurla Complex, Mumbai - 400051
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN NO. : AAAAC0547M</b>		

Assessee by	Shri. Mahesh K. Madholkar
Department by	Shri Lieder Panicker -Sr. Dr.
Date of Hearing	06.05.2024
Date of Pronouncement	09.05.2024

**ORDER**

**PER RENU JAUHRI (A.M.) :-**

1. The present appeal filed by the assessee is against the order of additional CIT(Appeal) dated 09/10/2023 for A.Y. 2014-15.

The appellant has raised the following grounds of appeal before us :

*“1. On the facts and circumstances of the case and also in law the learned CIT Appeals has erred in confirming the disallowance of the deduction claimed by the appellant u/s. 80P(2)(a)(i)/ 80P(2)(d) to the tune of Rs.15,68,274/- though the Appellant is very much entitled for the same.*

*2. The appellant craves leave to add, alter, amend, and modify the aforesaid grounds of appeal at or any time before the hearing as may be advised from time to time.*

2. The relevant facts in brief are as under. The appellant is a Co-operative Society carrying on the activity of giving credit facilities to its members for the last several years. The society filed its return declaring income of Rs.1/- after claiming the deduction u/s. 80P of the Act on 29/09/2014. The assessment was completed by the Assessing Officer on 17/12/2016 after disallowing the deduction claimed u/s. 80P(2)(d) in respect of interest received by the appellant on deposits made with Co-operative Banks. Aggrieved with the assessment order, the appellant filed appeal on 27/01/2017 which was dismissed by CIT(A) vide order dated 09/10/2023.
3. Before us the learned AR of the appellant has submitted that the same issue has been decided in the assessee's own case for assessment year 2017-18 by another bench of the ITAT in ITA NO. 159/Mum/2023 allowing the claim of deduction u/s. 80P(2)(A) of the Act.
4. The relevant portion of the order is reproduced below :

*“Heard both the sides and perused the material on record. The assessee is a credit cooperative society and provide credit facilities to its members. During the year under consideration the assessee society has claimed deduction u/s 80P of the Act in respect of interest received on surplus fund deposited with the following bank:*

- "1. The Thane Janta Sahkari Bank Ltd. (Co-op Bank)
2. The Saraswat Co-operative Bank Ltd. (Co-op Bank)
3. The Mumbai District Central Co-op Bank Ltd. (Co-op Bank)
4. Bank of Maharashtra. "

*During the course of appellate proceedings before me the Id. Counsel contended that on similar issue and identical facts the ITAT, Mumbai in the case of Navbharat Urban Cooperative Credit Society Ltd. Vs. CIT, vide ITA No. 5288-5289/Mum/2018 for A.Y. 2014-15 & 2015-16 dated 25.11.2021 has adjudicated the similar issue on identical facts in favour of the assessee. With the assistance of the Id. Representative I have perused the above cited judicial pronouncements wherein it is held that interest earned from amount kept with bank is part of the business income of the assessee and income so derived is the profit and gains of business attributable to the activity of carrying of business of providing credit facilities to its members by a cooperative society and is liable to be deducted from the gross total income u/s 80P and also allowed the deduction u/s 80P(2)(a)(i) of the Act. We have also perused the decision of ITAT, Mumbai in the case of Jaoli Taluka Sahkari Patpedhi Maryadit Vs. ITO vide (2017) 83 taxman.com 247 (Mum) and the decision of ITAT in the case of Gandhinglaj Taluka Patpedhi Ltd. Vs. ITO15(1)(2) (2017) 83 taxmann.com 40 (Mum Trib). The relevant part of the decision of ITAT, Mumbai in the case of Jaoli Taluka Sahkari Patpedhi Maryadit as mentioned supra is reproduced as under:*

*"8. The Ld D.R. on the contrary, placed strong reliance on the order passed by Ld CIT(A).*

*9. I heard the parties and perused the record. In my view, the decision rendered by Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd (supra) squarely applies to the facts of the present case. In the case before the Hon'ble Karnataka High Court also, the assessee claimed deduction u/s 80P(2)(a)(i) on the interest income earned from deposits kept with banks on the reasoning that the same shall form part of its business income. The Hon'ble High Court upheld the said view by duly considering the decision rendered by Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd (supra). For the sake of*

convenience, I extract below the observations made by the Hon'ble Karnataka High Court:-

*"8. Therefore, the word "attributable to is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Cooperative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.*

*9. In this context when we look at the judgment of the Apex Court in the case of M/s. Totgars Co-operative Sale Society Ltd., on which reliance is placed, the Supreme Court was dealing with a case where the assessee-Cooperative Society, apart from providing credit facilities to the members, was also in the business of marketing of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount which was payable to its members from whom produce was bought, was invested in a short-term deposit/security. Such an amount which was retained by the assessee - Society was a liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P(2)(a)(i) of the Act or under Section 80P(2)(a)(iii) of the Act. Therefore in the facts of the said case, the Apex Court held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act. Further they made it clear that they are confining the said judgment to the facts of that case. Therefore it is clear, Supreme Court was not laying down any law.*

*10. In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact this amount which is in the nature of profits and gains, was not immediately required by the assessee for lending money to the members, as there were no takers. Therefore they had deposited the money in a bank so as to earn interest. The said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of Section 80P(1) of the Act. In fact similar view is taken by the Andhra Pradesh High Court in the case of CITv. Andhra Pradesh State co-operative Bank*

*Lad, (2011) 200 Taxman 220/12 taxmann.com66. In that view of the matter, the order passed by the appellate authorities denying the benefit of deduction of the aforesaid amount is unsustainable in law. Accordingly it is hereby set aside. The substantial question of law is answered in favour of the assessee and against the revenue. Hence, we pass the following order:"*

*10. Respectfully following the decision rendered by Hon'ble Karnataka High Court, referred above, I set aside the order of Ld CIT(A) on this issue and direct the AO to allow deduction u/s 80P of the Act.*

*After perusing the aforesaid decision of the ITAT it is noticed that issue raised in the appeal of the assessee is similar to the issue as adjudicated in the above referred decision of the ITAT, therefore, respectfully following the decision of ITAT I direct the A.O to allow the claim of deduction of the assessee u/s 80P(2)(a)(i) of the Act. Therefore, the appeal of the assessee is allowed."*

5. In view of above decision in the assessee's own case on same facts, we allow the claim of deduction u/s. 80P(2) in respect of interest received on deposits with Co-operative Bank.

6. In the result, appeal is allowed.

Order pronounced in the open court on 09.05.2024.

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated : 09/05/2024

POONAM MIRASHI  
(STENOGRAPHER)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai