

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.592/PUN/2024
निर्धारण वर्ष / Assessment Year : 2017-18

Vijayraj Nagari Sahakari Patsanstha Maryadit, S.No.80/1/22, Residency, Kunj Nagar, Pimple Sudarshan Gaurav- 411027. PAN : AACAV1042J	Vs.	ITO, Ward-8(3), Pune.
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri Manoj Tripathi

Date of hearing : 01.05.2024
Date of pronouncement : 16.05.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 06.03.2024 passed by Ld CIT(A)/NFAC for the assessment year 2017-18.

2. The appellant raised the following grounds of appeal :-

"1. *On the facts and in the circumstances of the case and in law the learned Assessing Officer erred in making the disallowance of deduction u/s 80P of the Income Tax Act 1961 of Rs.38,79,392/-, disregarding the appellant's contentions & submissions in support of its claim.*

2. *On the facts and in the circumstances of the case and in law the learned Commissioner of Income-tax (Appeals) erred in not understanding the fact that the Investment is made into Co-operative Bank which is primarily registered under the Co-operative Societies Act and engaged in the business of providing banking related services.*

Your appellant craves for to add, alter, amend, modify, delete all above or any grounds of appeal before or during the course of hearing in the interest of natural justice.”

3. Facts, in brief are, that the appellant is a cooperative society engaged in business of providing credit facility to its members. The return of income for asstt year 2017-18 was furnished on 26-08-2017 declaring total income of Rs.78,990/-, after claiming deduction of Rs.38,79,392/- u/s 80P of the IT Act. The case was selected for limited scrutiny under CASS in order to verify large deduction under chapter VI-A & low income in comparison to high loans/advances. The AO issued notice u/s 143(2) on 11-08-2018 & thereafter notice u/s 142(1) was also issued on 30-09-2019 along-with questionnaire. During the course of assessment proceedings, the AO required the assessee to justify the deduction of Rs.38,79,392/- claimed u/s 80P of the IT Act in respect of interest received on bank deposits earned from other cooperative banks. According to the AO, the society is eligible to claim of deduction u/s 80P2(a)(i) in respect of the income derived from providing credit facilities to its members but is not entitled to claim of

deduction in respect of interest income earned on bank deposits made with other cooperative banks. The Ld. AR of the assessee claimed that even if the deduction u/s 80P(2)(a)(i) is not eligible, the society is eligible for deduction u/s 80P(2)(d) of the IT Act. But the AO said that as per section 80P(2)(d) the income by way of interest or dividend derived by the cooperative society from its investment with any other cooperative society is only deductible, and the cooperative banks are not cooperative societies therefore interest earned from cooperative banks does not qualify for deduction u/s 80P(2)(d) of the IT Act. Consequently the AO vide order dated 07-12-2019 passed the assessment order & denied the deduction of Rs.38,79,392/- claimed u/s 80P of the Act.

4. Being aggrieved the assessee preferred first appeal before LD CIT(A)/NFAC, who vide order dated 06-03-2024, confirmed the findings of the AO & dismissed the appeal of the assessee. It is this order against which the assessee is in appeal before this Tribunal.

5. The LD AR submitted before us that it has already been held by coordinate benches of this Tribunal that the cooperative banks are also cooperative societies duly registered under the respective Cooperative Societies Act of that state & the interest income earned by cooperative society from the deposit/investment with other

cooperative banks qualifies for deduction u/s 80P2(d) of the IT Act. The counsel of the assessee further clarified that in the instant case also the assessee cooperative society has deposited amount with other cooperative society who are doing banking business & earned interest of Rs.38,79,392/- from those cooperative banks. The counsel of the assessee in support of its contention further relied on various decisions of coordinate benches of this Tribunal. It was therefore requested before the bench to set-a-side the orders passed by the AO as well as by LD CIT(A)/NFAC & delete the addition of Rs.38,79,392/- under the head “income from other sources”, made by the AO & confirmed by LD CIT(A)/NFAC.

6. The LD DR supported the orders passed by the AO as well as by LD CIT(A)/NFAC.

7. We have heard learned counsels from both the sides & perused the material available on the record. We find that LD AO denied the deduction on the basis of only one ground that the cooperative banks are different from cooperative society & therefore section 80P(2)(d) has no application on the interest income earned from such cooperative banks. It is further found that LD CIT(A)/NFAC has also confirmed the order of the AO by saying that the interest from commercial bank does not qualify for

deduction either u/s 80P(2)(d) or u/s 80P(2)(a)(i) of the IT Act. We find force in the contention of the counsel of the assessee that the coordinate benches of this Tribunal has already held in various decisions that cooperative banks are also cooperative society & therefore the interest earned by a cooperative society from its investment / deposit with other cooperative banks also qualifies for deduction u/s 80P(2)(d) of the IT Act. In this regard it is worthwhile to refer the decision of the coordinate bench of this Tribunal in the case of Karmveer Bhaurao Patil Nagri Sahkari Patsanstha Maryadit vs. ITO vide ITA No.1045/PUN/2023 order dated 21-02-2024, wherein under the similar circumstances a coordinate bench of this Tribunal has allowed the deduction u/s 80P2(d) of the IT Act by observing in para 10 of the order as under :-

“10. Without multiplying judicial precedents on the aforesaid issue, maintaining same parity we adopt equi reasoning and hold that, the interest income earned by the appellant society from its investment held with other cooperative banks since being a registered co-operative society under respective state laws, qualifies for deductions u/s 80P(2)(d) of the Act. Resultantly, we set-aside the impugned orders and reverse the denial of deduction.”

8. Respectfully following the above decision of the coordinate bench of this Tribunal in the case of Karmveer Bhaurao Patil Nagri Sahkari Patsanstha Maryadit vs. ITO in ITA No.1045/PUN/2023

order dated 21-02-2024, we cannot support the orders passed by the AO as well as passed by LD CIT(A)/NFAC. Therefore we hold that the appellant assessee is entitled to claim deduction u/s 80P(2)(d) of the IT Act in respect of interest income of Rs.38,79,392/- earned from the investment/ deposit from other cooperative banks. Thus, the grounds raised in the appeal of the assessee are allowed.

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

Order pronounced in the open Court on 16th day of May, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16th May, 2024.

Sujeet

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.