

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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
MISS. PADMAVATHY.S, ACCOUNTANT MEMBER

ITA 4280/Mum/2023
(Assessment year 2017-18)

Mahapalika Kshetra Madhyamik Shikshak Sahakari Pat Sanstha Maryadit, 201/202, Anish Tower, Senapati Bapat Marg, Matunga (West), Mumbai-400 016 PAN:AAAAMI1865G	vs	CIT(A), National Faceless Appeal Centre (NFAC), Delhi, Piramal Chambers, Mumbai-400 012
APPELLANT		RESPONDENT

Assessee by : Shri Sumit Sheth
Respondent by : Shri R.R. Makwana, JCIT

Date of hearing : 25/04/2024
Date of pronouncement : 29/ 04/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee is filed against the order of the National Faceless Appeal Centre, Delhi (NFAC)[for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for Assessment Year 2017-18

dated 11/10/2023. The impugned order was emanated from the order of the Ld. Income-tax Officer, Ward-22(2)(1), Mumbai (in short, 'the A.O.') passed under section 143(3) of the Act dated 10/12/2019.

2. The assessee has taken the following grounds of appeal: -

"1. The action of the learned CIT (A) in disallowing the deduction u/s 80P(2) (a) (i) of Rs. 43,67,000 as claimed by the Appellant is erroneous and bad in law .

2. The action of the learned CIT (A) of assessing the income from Interest on Fixed Deposit and Dividend Income of Rs. 43,67,000 u/s 80 P (2) (d) instead of section 80 P (2) (a) (i) is erroneous and bad in law .

3. The action of the learned CIT (A) by not considering the ITAT, Mumbai order already decided in favour of the Appellant in A.Y.2014-15 on the same matter is erroneous and bad in law."

3. The brief facts of the case are that the assessee is a registered Society under Maharashtra Co-operative Society Act, 1960. The said society is a society of municipal secondary teachers and other municipal employees. The said Society registration No. is BOM/W/GS/BNK/0/435/91-92 dated 16/01/1992. As per the assessee, the assessee-society is a credit society and not a co-operative bank. The assessee co-operative credit society is engaged in the business of accepting deposits from its members and providing credit facilities to its members, which are repayable on demand, for the purpose of lending to members. Further, on account of statutory guidelines and as required by the regulations of the societies under the Maharashtra Cooperative Societies Act, 1960, the appellant society has invested in the fixed deposits with Mumbai District Central Cooperative (MDCC) bank from the deposits accepted from its members. Since the deposits from

members are repayable on demand, investments in deposits with MDCC bank have to be made as per the statutory regulations of the societies and credit facilities are to be provided to the members, the appellant society needs to maintain sufficient liquidity and therefore, the appellant society has taken an overdraft facility from the MDCC bank against the fixed deposits with MDCC Bank which are given as security to MDCC bank. The above overdraft facility is further utilized to provide credit facilities to the members of the appellant society. Thus, society is required to lend/invest its funds prudently in such a manner which is beneficial to its members. During the impugned assessment year, the entire deduction U/s 80P(2)(d) was disallowed related to earning of interest & dividend amount to Rs. 43,67,004/-. The aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the assessment year. Being dissatisfied with the appeal order, the assessee filed appeal before us.

4. Ld. AR submitted a written submission which is kept in the record. The Ld.AR argued and placed that claim of deduction of interest and dividend of the co-operative bank and society was duly covered by the order of the co-ordinate bench of ITAT in assessee's own case bearing **ITA No.3810/Mum/2023, date of pronouncement 06/03/2024**. The relevant paragraph is as follows: -

"4. Heard both the sides and perused the material on record. The assessee is cooperative credit society and it provide credit facility/loan to its members and collect deposits from its members. During the year under consideration the assessee society has received interest from Mumbai District Central Cooperative Bank to the amount of Rs.33,36,433/- and dividend of Rs.6,85,440/-. The assessee has claimed deduction u/s 80P(2)(d) of the Act. To claim deduction u/s 80P(2)(d) the income must have been earned by way of investment made with any cooperative society. We consider though the co-operative bank pursuant to the insertion of sub-section (4) of Section SOP is no mere be entitled for claim of deduction u/s SOP of the Act, but however as a cooperative bank it still continued to be a cooperative society registered under the cooperative society Act therefore, any income by way of interest or dividends derived by the Co-operative Society from its investments with that cooperative bank would be entitled for claim of deduction u/s 80P(2)(d) of the Act.

Therefore, we direct the AO to allow the claim of deduction to the assessee cooperative society in respect of interest dividend earned from investment made with the other Cooperative Society being the Co-operative Bank as discussed in this order. Therefore, the appeal of the assessee is allowed.

5. *In the result the appeal of the assessee is allowed.”*

5. He further invited our attention to the fact that the same issue is also covered by assessee's own case in **ITA No.928/Mum/2018 A.Y. 2014-15**dt of pronouncement **25/06/2019**.

6. The Ld.DR argued and fully relied on the order of the revenue authorities.

7. We heard the rival submissions and considered the documents available on the record. The assessee claimed the deduction under section 80P(2)(d) where the interest related to co-operative bank and co-operate credit societies duly rejected by the Ld.AO and was upheld by the Ld.CIT(A). The issue is well settled by the co-ordinate bench of ITAT, Mumbai and the dividend which is earned by the assessee from shares of the co-operative banks and co-operative credit society is also eligible for deduction under section 80P(2)(d) of the Act. The appeal order is duly set aside and the addition of Rs.43,67,004/- is quashed. So, in our considered view, the interest earned from cooperative credit society and dividend earned from share of cooperative bank are allowable deduction U/s 80P(2)(d). Accordingly, the appeal of the assessee is allowed.

7. In the result, appeal in **ITA No.4280/Mum/2023** is allowed.

Order pronounced in the open court on 29th day of April, 2024.

Sd/-

(PADMAVATHY. S)

ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 29/04/2024

Pavanan

sd/-

(ANIKESH BANERJEE)

JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), **ITAT, Mumbai**