

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "A" BENCH : PUNE : [HYBRID HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI GD PADMAHSHALI, , ACCOUNTANT MEMBER

I.T.A.No.280/PUN./2024 [E-APPEAL]  
Assessment Year 2020-2021

The Income Tax Officer, Ward-5, Aayakar Bhavan, South Shivaji Nagar, SANGLI – 416 416 Maharashtra.	vs.	Shri Chandraprabhanath Digambar V.K.S. Society Ltd., Near Nagar Palika, Mirajwadi, Astha, Tal-Walwa, Dist. Sangli. PIN – 416 301 PAN AAGAS8242R
(Appellant)		(Respondent)

For Revenue :	Shri Keyur Patel, CIT-DR
For Assessee :	-None-

Date of Hearing :	28.05.2024
Date of Pronouncement :	04.06.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal for assessment years 2020-2021, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1058874451(1), dated 19.12.2023, involving proceedings u/s.144 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest.  
It is accordingly proceeded ex-parte.

2. The Revenue pleads the following substantive grounds in the instant appeal :

1. *“On the facts and in the circumstances of the case in law, the Ld. CIT(Appeals) erred in deleting addition of Rs.28,56,449/- on account of disallowance of deduction under section 80P of the Income-tax Act, 1961 made by the AO.*
2. *On the facts and in the circumstances of the case and in law, the Ld. CIT-(Appeals) erred in deleting addition of Rs.8,13,03,229/- made by the AO on account of unexplained investment.*
3. *On the facts and in the circumstances of the case and in law, the Ld. CIT-(Appeals) erred in accepting additional evidence and submission without providing sufficient time to the AO for submitting the remand report which deny the Assessing Officer any opportunity to cross examine the credit worthiness, genuineness of transactions of the investments made by the assessee and also taken Loans/advances by issuing notices u/s. 133(6)/131.*
4. *On the facts and in the circumstances of the case and in law, the Ld. CIT-(Appeals) erred in allowing claim of deduction u/s.80P(2)(d) of the Act without appreciating the fact that during the course of assessment proceedings the assessee Pat Sanstha failed to produce any evidence to establish that it had expended any expenditure wholly and exclusively to earn interest income from co operative bank, commercial banks and other financial institutions.*

*5. The appellant craves leave to add, alter, amend and modify any of the above or all grounds raised at the time of proceedings before the Hon'ble Tribunal which may please be granted.”*

3. We have given our thoughtful consideration to the Revenue's foregoing pleadings and find no merit therein. Coming to its former substantive ground seeking to reverse the NFAC's action granting sec.80P deduction to the assessee, it is noted that the impugned lower appellate discussion to this effect reads as under :

**8. Ground of appeal no 1:-** This ground is against the disallowance of deduction u/s 80P. On perusal of the the impugned order, it is noted that the A.O. has held the appellant as not eligible for deduction of Rs.28,56,449/ claimed u/s 80P(2)(a)(iv) due to the sole reason that the appellant did not submit any explanation during the assessment proceedings to justify its eligibility for deduction u/s 80P. On the other hand, the appellant in his submissions filed has stated that it is registered co-operative society duly registered under Maharashtra Co-operative societies Act 1960 and has furnished documentary evidences viz-Registration Certificate and bye-laws of the society to prove its eligibility u/s 80P. On perusal of the documents furnished, it is noted that the society is a primary co-operative agricultural society and is engaged in sale of raw material, chemical fertilizers and food grains under government scheme to its members and purchase of chemical fertilizers, raw material and goods under PDS scheme. Its Balance Sheet and Profit & Loss A/c are audited as per the Maharashtra Co-op Society Act as verified by the A.O. in the remand report. However, no specific comments have been offered by the AO in the remand report filed regarding the allowability of deduction u/s 80P.

**8.1** On perusal of the submissions and documents furnished by the appellant, it is noted that the appellant society is a primary credit co-operative society registered and operating under the provisions of the Maharashtra Co-operative Societies Act and is engaged in the activity of purchase & sale to members of agricultural implements, seeds, fertilizers etc. intended for agriculture. Thus, the income of the appellant society earned from such activity is found to be eligible for deduction **u/s 80P(2)(a)(iv)** of the Act.

**8.2** Further, perusal of the Trading & Profit & Loss account reveals that apart from earning income from the above stated activity covered u/s 80P(2)(a)(iv), the appellant also earned substantial interest income on the loans granted to the members (Rs. 79,86,974) and also on interest income on its investments made with Sangli District Co-operative Bank (Rs. 11,77,783) during the year under consideration. Further, it is noted that the appellant also raised loan from the Sangli DCC Bank and paid interest of Rs. 49,39,583 thereon during the year which is debited to the P&L A/c. The loan so raised is found utilized for extending agricultural loans to members and for making investments in other co-operative societies/co-op banks. **The interest income so earned from members and from co-op bank is found eligible for deduction u/s 80P(2)(a)(i) and 80P(2)(d) respectively.** It has been held in a plethora of judicial pronouncements by various High Courts and ITATs, including jurisdictional bench of ITAT, that the interest income earned from investments by a co-operative society in any co-operative bank is eligible for deduction u/s 80P(2)(d) of the Act as the co-operative banks are also, ultimately, registered co-operative societies for the purposes of section 80P(2)(d). A few of the judicial pronouncements holding interest

from co-operative banks to be eligible for deduction u/s 80P(2)(d) are listed below:

(i) Hon'ble High Court of Kerala in PCIT v. Peroorkada Service Co-Operative Bank Ltd. N ITA No. 323 of 2019 and PCIT v. Vilappil Service Co-Operative Bank Ltd. In ITA No.142 of 2019 reported as (2022) 442 ITR 141/ 217 DTR 246/ 328 CTR 443 (Ker.)(HC)

(ii) Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn)

(iii) Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj),

(iv) Hon'ble High Court of Delhi in the case of Manotla Co-operative Thrift Credit Society Ltd vs CIT [2014] 50 taxmann.com 278/ [2015] 229 taxman 68

(v) Hon'ble ITAT Delhi judgment dated 27.07.2020 in Manotla Co-operative Thrift & Credit Society Ltd vs ITO [2020] 118 taxmann.com276 (Delhi-Trib.)

(vi) Hon'ble Mumbai ITAT in Gautam Dhan Co-op Housing Society Ltd. Vs. ITO in ITA No. 997/Mum/2023 vide Judgment, dated 13.06.2023,

(vii) Solitaire CHS Ltd, Vs. Pr.CIT-26, Mumbai ITA No.3155/Mum/2019, dated 29.11.2019,

(viii) Hon'ble Mumbai ITAT judgment dated 03.12.2018 in ITA No. 5741/Mum/2018 in the case of M/s Sai Prerna Co-operative Society Limited vs ITO

(ix) Judgment dated 21.12.2022 of the Hon'ble ITAT in ITA No. 460/PUN/2022 by a consolidated order passed in the case of 18 nos. of assesseees; and so on.

**8.3** In view of the above, **the entire returned income of the appellant (Rs. 28,56,449) is found eligible for deduction u/s 80P of the Act.** Therefore, the A.O. is directed to allow the same. The disallowance thereof in the impugned assessment order by the A.O. is hereby deleted. This ground of appeal is, thus, **allowed.**

4. Suffice to say, it has come on record that the NFAC had duly admitted the assessee's additional evidence(s) in respect of its sec.80P deduction claim after complying with the necessary requirements under Rule 46A of I.T. Rules, 1962. The learned CIT-DR could hardly dispute that the Assessing Officer had further submitted his remand report before the NFAC verifying all the necessary aspects regarding the said deduction claim raised at assessee's behest. Coupled with this, the learned NFAC's detailed discussion has also taken note of all the relevant judicial precedents so far as assessee's interest income(s) realized from cooperative institution(s) as well as members, involving varying sums is concerned. Rejected accordingly.

5. The factual position is hardly any different regarding the latter issue of sec.69B addition of Rs.8,13,03,229/- wherein the NFAC's detailed discussion to this effect reads as under :

**9. Ground of appeal No.2 :** This ground is against the addition made by the A.O. u/s 69B of Rs.8,13,03,229/-. The appellant has declared below mentioned investments in its Balance sheet:

1) Short Term Investment- Rs.1,33,33,092/-

2) Loans and Advances- Rs.6,79,70,037/-

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The AO has made an addition of Rs. 8,13,03,229/- u/s 69B of the Act treating the entire above investments as unexplained investment u/s 69B as the appellant had remained completely non-responsive during the assessment proceedings and did not furnish any details/explanation with regard to the source of the above investments. The appellant has filed additional evidences in this regard during the appeal proceedings as mentioned at para 6 above.

### 9.1 Loans and Advances- Rs.6,79,70,037/-

With regard to the same, the appellant has furnished below mentioned details

Loans and advances			
A50110		Members Medium/Long term agricultural loan	Amount Rs
	A50030	Long term new well loan to member	668,924.00
	A50060	Long term grape cultivation loan to member	240,500.00
	A50080	Medium term cattle purchase loan to member	946,450.00
	A50100	Medium term pipeline loan to member	2,128,466.00
	A50130	Medium term tractor loan to member	1,960,000.00
	A50140	Medium term farmer home loan to member	1,118,322.00
	A50150	Medium term ordinary loan	7,850,726.00
		Total	14,913,388.00

A50010		Members Short term agricultural loan / kisan credit card	
	A40010	Members short term sugarcane	38,250,820.00
	A40020	Members short term sugarcane	12,632,673.00
	A40040	Members short term normal loan	1,273,750.00
	A40070	Members chap cutter distribution laon	15,200.00
	A40100	Members short consumption loan	884,300.00
		Total	53,056,743.00
		Gross	67,970,131.00

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The details with respect to Loans given by the society to its members amounting to Rs.6,79,70,137/- were verified by the AO from the ledger a/cs during the remand proceedings and no adverse inference has been drawn by the A.O.

### 9.2 Short Term Investment– Rs.1,33,33,092/-

Further, with regard to Investments made amounting to Rs.1,33,33,092/-, the assessee has furnished below mentioned details:

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No			
A40050		<b>Investment</b>	<b>Amount Rs</b>
A30010	Sangli District Central Cooperative Bank shares.		6,192,000.00
A30090	Walwa Taluka Sangh Ltd, Islampur shares.		1,100.00
A30100	Maharashtra state cooperative bank Ltd, mumbai shares.		250.00
A30110	The maharashtra state coop federation shares.		400.00
A30120	Vasantdada shetkatri cooperative sugar factory Ltd Sangli shares.		9,500.00
A30130	Rajarambapu Patil co-op sugar factory Ltd Sakhrale shares.		20,000.00
A30140	Warna Valley co-op Kharedi-Vikri Sangh Ltd Islampur shares.		8,000.00
A30150	The groundnut processing co-op society Ltd shares.		4,500.00
A30160	Krushna Khore Co-op dudh utpadak sangh Ltd Miraj shares.		500.00
A30170	Walwa taluka co-op consumers society Islampur shares.		300.00
A30180	walwa taluka mudranalaya, Islampur shares.		400.00
A30190	Sangli district co-op mudranalay Ltd Sangli shares.		100.00
A30200	The Maharashtra state co-op land dev. Bank Ltd, Mumbai shares.		300.00
A30210	Shri ganpati district agro-industrial society Ltd, Sangli shares.		5,000.00
A30220	Indian pharmacy ferti. Co-op farmers, Delhi shares.		100,000.00
A30230	Sangli district co-op dekhreh society shares.		500.00
A30240	Sarvoday co-op sugar factory Ltd, Karandwadi shares.		3,090.00
		Total	6,345,940.00

A40100		<b>Fixed deposit, Reserve fund in Sangli dcc bank</b>	
A30030	Reserve Fund		6,658,487.00
A30250	Provident fund investment fund (staff)		280,000.00
		Total	6,938,487.00

A40150		<b>Other deposit in Sangli Dcc</b>	
	Sangli Dcc - Special bad debt		15,486.00
		Total	15,486.00

A40350		<b>Other investment</b>	
A30060	MSEB meter deposit		105.00
A30070	Municipal Deposit		100.00
A30080	Telephone Deposit		950.00
A30260	M.I.D.C dealership deposit		30,000.00
A80130	Treasury deposit		350.00
A80140	Anamat		1,000.00
A80170	Rama krushi seva krushi deposit.		5,000.00
A80180	R.C.F deposit.		35,000.00
A80210	Marketing federation anamat		1,100.00
A80220	Kerosene licence deposit		3,000.00
		Total	76,605.00

Gross investment	13,376,518.00
Less Reduction in value of Investments	43,426.00
Net investment	13,333,092.00

  
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The AO in his remand report has stated that the major investments- Investment made with Sangli DCC Bank shares amounting to Rs.61,92,000/, Sangli DCC Bank Non-refundable fixed deposits amounting to Rs.66,58,487/, Employees provident fund deposit of Rs.2,80,000/-, Sangli Debit Funds of Rs.15,486/- have been verified and no adverse inference has been drawn.

**9.3** Further, on perusal of the Balance Sheet of the appellant, it is noted that the above investments are duly recorded in the Balance Sheet and no finding as to any under valuation of the above investments in the books of accounts has been given by the A.O. in the impugned assessment order. Further, source of these investments is clear from the liability side of the Balance sheet itself. The investments are found

largely sourced from the share capital (Rs. 1,61,08,290), Reserves & Surplus (Rs. 99,01,869) and Loan from Sangli DCC bank (Rs. 6,22,35,562). No abnormality in the value or pattern of investments has been highlighted by the A.O. Thus, section 69B is found to be not applicable in this case.

**9.4** In view of the available documents and the fact that the investments to the tune of Rs.1,31,45,973/- and Loans and advances of Rs.6,79,70,037/- have been duly explained by the appellant to the AO during the Remand Proceedings, and no adverse comments have been offered by the AO in this regard, the explanation offered by the appellant against the said addition is found acceptable. Thus, it is concluded that **the AO was not justified in making addition of Rs.8,13,03,229/- as unexplained investments and the said addition is hereby deleted. Consequently, the ground of appeal no 2 is hereby allowed.**

6. We noticed herein as well that the Assessing Officer had duly submitted his remand report before the NFAC not finding any lacuna in assessee's explanation so far as source of the impugned investment(s) is concerned. Learned CIT-DR could also not dispute from Revenue's pleadings that the Assessing Officer's above stated remand report in any case had failed to verify all the relevant facts submitted by the assessee during the relevant proceedings. Faced with this situation, we

conclude that the NFAC's foregoing lower appellate findings deciding both these issues in assessee's favour hardly call for any interference in the instant second appellate proceedings. The same stands confirmed. Ordered accordingly.

7. This Revenue's appeal I.T.A.No.280/PUN./2024 is dismissed in above terms.

Order pronounced in the open Court on 04.06.2024.

Sd/-  
[GD PADMAHSHALI]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 04<sup>th</sup> June, 2024

VBP/-

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1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned.
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.