

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

Before
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.609/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

The Saurashtra Jain Mutually Aided Cooperative Credit Society Ltd, Hyderabad PAN:AAYFS9752K (Appellant)	Vs.	Income Tax Officer Ward 5(2) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	Adv. Syed Jameeluddin	
राजस्व द्वारा/Revenue by::	Smt. P. Sumitha, DR	
सुनवाई की तारीख/Date of hearing:	26/06/2024	
घोषणा की तारीख/Pronouncement:	26/06/2024	

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 18/04/2024 of the learned CIT (A)-/Addl/JCIT(A) Madurai, relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the assessee a Mutually Aided Cooperative Credit Society Ltd filed its return of income admitting gross total income of Rs.15,48,162 and claimed deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961. The case was

selected for scrutiny and the assessment has been completed u/s 143(3) of the I.T. Act, 1961 on 06/12/2019 and determined the total income at Rs.17,10,480/- by interalia making addition towards interest income received from Banks on FDRs and SB Account on the ground that the interest income earned by the Cooperative Credit Society from other Cooperative Bank is not entitled for deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961.

3. The assessee carried the matter in appeal before the first appellate authority. Before the learned CIT (A), the assessee submitted that the assessee being a Mutually Aided Cooperative Credit Society extending credit facility to its members has earned interest income from other Cooperative Society from its investments which is eligible for deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961. The JCIT (A) Madurai after considering the decision of the Hon'ble Supreme Court in the case of Mavilayi Service Cooperative Bank & Others vs. CIT (2021) (431 ITR 1(S.C) had held that section 80P(2)(a)(i) of the I.T. Act, 1961 states that interest and dividend income earned by cooperative society from its investment from another cooperative society qualifies for deduction and thus, by following the decision of the ITAT Pune Benches, in the case of Rena Sahakari Kharkhana Ltd vs. CIT (2022) 138 Taxmann.com 532 (Pune Trib.) held that the interest earned on deposit from different cooperative banks falling under the head "other sources" is eligible for deduction u/s 80P(2)(d) of the I.T. Act, 1961. It was further held that since the appellant has

filed return of income and the PAN AAYFS9752K in the status of a firm and thus the assessee cannot claim deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961. Therefore, rejected the claim of the assessee and directed the Assessing Officer to limit the disallowance to the extent of Rs.15,48,062/-.

4. Aggrieved by such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that although the Jt. CIT (A) in principle accepted the legal principle that the interest income earned by the cooperative society from its investment from another cooperative society is eligible for deduction/s 80P(2)(d) of the I.T. Act, 1961, but erred in directing the Assessing Officer to assess the total income at Rs.15,48,062/- which is the gross total income declared by the assessee before claiming deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961 by misinterpreting the PAN of the assessee even though the assessee has filed its return of income in the status of a cooperative society (AOP/BOI). Therefore, he submitted that the findings of the learned CIT (A) in directing the Assessing Officer to assess the income should be deleted.

6. The learned DR, on the other hand, supporting the order of the learned CIT (A) submitted that if we go by PAN which

denotes the PAN of a partnership firm and thus, a partnership firm cannot claim deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961. Therefore, the learned CIT (A) has rightly assessed the income of the assessee and the order of the learned CIT (A) should be upheld.

7. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant is a Mutually Aided Cooperative Credit Society Ltd. The appellant has filed return of income for the A.Y 2017-18 in the status of AOP/BOI as a cooperative society which is evident from the copy of the ITR filed which is available in Paper Book page Nos. 10 & 11. The Assessing Officer had also accepted the status of the appellant as a cooperative society which is evident from the assessment order passed by the Assessing Officer. The learned CIT (A) while discussing the issue of taxability of interest income earned by the appellant society from its investment with other cooperative society has categorically stated that the appellant is a credit cooperative society. However, only on the basis of PAN No. of the appellant opined that the appellant is a partnership firm which cannot claim deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961. In my considered opinion, the learned CIT (A) is totally erred in coming to the conclusion that the appellant is a partnership firm on the basis of a PAN even though the return filed by the assessee is clearly denotes the status of the appellant

as a cooperative society (AOP/BOI) and further, the assessment order clearly states that the appellant is a credit cooperative society. Therefore, I am of the considered view that the learned CIT (A) having accepted the legal position that the appellant is entitled for deduction u/s 80P(2)(d) of the I.T. Act, 1961 in respect of the interest income earned from its investment with other cooperative bank is clearly erred in directing the Assessing Officer to tax the gross total income of the assessee on the ground that the appellant's status is a partnership firm. Thus, I set aside the order of the learned CIT (A) and direct the Assessing Officer to assess the appellant in the status of a cooperative society and also allow deduction claimed u/s 80P(2)(a)(i)/80P(2)(d) of the I.T. Act, 1961.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 26th June, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated 26th June, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	The Saurashtra Jain Mutually Aided Coop.Society C/o Syed Jameeluddin, Income Tax Consultant, 16-7-302, Erram Cottage Azampura Chaderghat, Hyderabad 500024
2	Income Tax Officer, Ward 5(2) IT Towers, AC Guards, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order