

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "SMC" Bench, Mumbai.

Before Shri Prashant Maharishi (AM)

I.T.A. No. 1009/Mum/2024 (A.Y. 2016-17)

Chitrakoot Cooperative Housing Society Ltd. Altamount Road Near Jaslok Hospital Maharashtra-400026. PAN : AAAC0342C (Appellant)	Vs.	ITO, Ward-19(1)(3) Matru Mandir Tardeo Road Mumbai-400 007. (Respondent)
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Assessee by	Shri Meet Saurin Dangarwala
Department by	Shri R.R. Makwana
Date of Hearing	10.06.2024
Date of Pronouncement	27.06.2024

ORDER

Per Prashant Maharishi Accountant Member

1. This appeal is filed by Chitrakoot cooperative housing society Ltd for assessment year 2016 – 17 against the order of the National faceless appeal Centre (NFAC) Delhi (the learned CIT – A) dated 5/1/2024 wherein the appeal filed by the assessee against the assessment order dated 24/12/2018 passed under section 144 of the income tax act 1961 by the income tax officer Ward 19 (1) (3), Mumbai (the learned AO) was dismissed.
2. The only issue involved in this appeal is that assessee is disallowed the deduction of ₹ 3,076,363/- under section 80 P (2) (d) of the act on account of interest income received by the assessee from other cooperative banks.
3. The fact shows that the assessee filed its return of income on 19/12/2016 declaring a total income of ₹ 27,170/-. The return of income was picked up for limited scrutiny and notice under section

143 (2) of the act was issued and served. It was found that assessee has earned gross total income of ₹ 3,103,535/- and has claimed deduction under section 80 P (2) (D) of the act on account of bank interest received from cooperative banks amounting to ₹ 3,076,363/-. The learned assessing officer asked the assessee that why the above deduction claimed by the assessee should not be disallowed. The learned authorized representative of the assessee made several claims before the learned AO but same were denied holding that assessee cannot be allowed deduction under that section with respect to the interest income on from cooperative banks as those are not cooperative societies.

4. Consequently the assessment order was passed under section 144 of the act determining total income of the assessee at ₹ 3,103,540/- as per assessment order dated 24/12/2018.
5. Assessee preferred an appeal before the National faceless appeal Centre, the appeal of the assessee was disposed on 5/1/2024 wherein the assessee reiterated its claim of deduction. The learned CIT - A dismissed the claim relying upon the several judicial precedents.
6. The assessee in appeal before us filed a paper book containing 92 pages wherein several judicial precedents were relied upon. The learned authorized representative reiterated the facts stated before the AO.
7. The learned departmental representative supported the order of the lower authorities.
8. We have carefully considered the rival contention and perused the orders of the lower authorities. The only controversy involved in this appeal is whether in case of cooperative society, which has made an investment in another cooperative societies which are cooperative banks, on interest thereon, whether such interest can be considered as income eligible for deduction under section 80 P (2) (d) of the act. The

claim of the revenue is that cooperative banks are not cooperative societies and therefore deduction is not eligible.

9. On the merits of the case, provisions of section 2 (19) define a co-operative society as under:-

19)	"co-operative society" ⁹⁷ means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies ;
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10. Thus, for the definition of the cooperative society whether covers the cooperative banks are not one has to look at the respective cooperative societies act is applicable.

11. THE MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960, Defines cooperative banks as per section 2 (10) of that Act as under :”-

“Co-operative bank” means a Co-operative society which is doing the business of banking as defined in clause (b) of sub-sections (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as an Agricultural and Rural Development Bank under Chapter X.

12. Thus it is apparent that cooperative banks are also a co-operative society. Only difference is that those cooperative societies are doing the business of banking as per the banking companies' act 1949. Therefore, merely because these cooperative societies cooperative bank they do not lose their status as a co-operative society.

13. According to the provisions of section 80 P (2) (d) of the income tax act

(d)	in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;
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14. Thus, the assessee’s investment of earning interest income from such cooperative banks which are also cooperative societies whole of such income is deductible under this section.

15. It is not in dispute that assessee is not a cooperative bank and therefore provisions of section 80 P (4) of the act does not apply to it.

