

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,  
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL  
MEMBER**

**&**

**SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 205/Mum/2024  
(A.Y. 2020-21)**

Mitra Kunj Co. Op. Housing Society Ltd. 16, Mitra Kunj, Peddar Road, Mumbai-400026	Vs.	ADIT, CPC, Bengaluru, Income-tax Department, Bengaluru-560500/ITO Ward-19(2)(2), Mumbai Piramal Chambers, Parel Mumbai
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABA2281R</b>		
<b>Appellant</b>	<b>..</b>	<b>Respondent</b>

Appellant by :	Shri Bupendra Shah
Respondent by :	Shri Nagnath Pasale

Date of Hearing	30.05.2024
Date of Pronouncement	27.06.2024

**आदेश / O R D E R**

**PER RENU JAUHRI [A.M.] :-**

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 16.11.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2020-21.

2. The assessee has raised following grounds of appeal:



- a. *“In the facts and circumstances of the case and in law, the learned National Faceless Appeal Centre (NFAC) erred in assessing the total income of Rs. 7,19,410/- as against returned income of 2,00,290/- and thereby made addition to the tune of Rs. 5,19,120/-.*
  - b. *In the facts and circumstances of the case and in law, the learned NFAC erred in disallowing deduction u/s. 80P(2)(d).*
  - c. *In the facts and circumstances of the case and in law, the learned NFAC has stated in the order that when Co-operative banks are registered with RBI for banking licenses, they lose the status of co-operative society. For registering with RBI for banking license to operate as a co-operative bank, the entity first should register itself as co-operative society.*
  - d. *The Learned NFAC is not justified in altering section 80P(2)(d) by stating that "the interest received is not from a co-operative society that operates within a taluk of a Revenue District but from a multistate cooperative bank & State Apex Co-operative bank that operate in many states and in more than one taluk of a Revenue District" which does not form part of the proviso 80P(2)(d).*
  - e. *In the facts of the case and in Law, the learned NFAC erred in confirming the addition by rejecting the ground of appeal.”*
3. The brief facts are that the assessee is a residential Co-operative Housing Society and its return of income was filed on 25.11.2021. It has claimed deduction u/s 80P(2)(d) of the Act in respect of interest of Rs. 5,19,119/- earned from co-operative banks during the year. The assessee’s claim was disallowed by CPC while processing the return u/s 143(1) of the Act. The assessee filed a rectification application u/s 154 of the Act which was also rejected by the AO vide order dated 10.01.2023.



4. Aggrieved with this order, the assessee filed an appeal before the Ld. CIT(A)/NFAC on 28.01.2023. After considering the submissions of the assessee, the Ld. CIT(A) dismissed his appeal.
5. Before us the Ld. AR submitted the details of interest income received from the Maharashtra State Co-operative Banks and the Saraswat Co-operative Bank during the year in respect of which deduction u/s 80P(2)(d) has been claimed as under:

<i>Sr. No.</i>	<i>Name of co-operative bank</i>	<i>Amount</i>
1.	<i>The Maharashtra Stat Co-operative Bank</i>	<i>46,726</i>
2.	<i>Saraswat Bank – Flexi Deposit</i>	<i>4,35,835</i>
3.	<i>Saving Bank Interest</i>	<i>36,558</i>
	<b>Total</b>	<b>5,19,119</b>

He has also filed a certificate from the Saraswat Co-operative Bank stating that it is a co-operative society registered under the Bombay Co-operative Society's Act. This issue has been decided earlier by various co-ordinate benches as well as non-jurisdictional High Court. Reliance has been placed by the Ld. AR on the following decisions of the co-ordinate benches:

- a. *BOB EML Mayuresh Co-operative Hsg. Society Ltd. ITA No. 4539/Mum/2023 for AY 2021-22 dated 08.05.2024*
- b. *Kons Seema Co-operative Housing Society Ltd. ITA No. 2024/Mum/2023 for AY 2015-16 dated 08.11.2023*
- c. *Rekab Co-operative Hsg. Society Ltd. ITA No. 4481 & 4482/Mum/2023 for AY 2013-14 & 2015-16.*

6. We have heard the rival submissions and the facts of the case. On similar facts, various co-ordinate benches have decided the issue in favour of the assessee. The facts of the present case are squarely covered by the decision of the co-ordinate bench in the Rekab Co-operative Hsg. Society Ltd. (supra) wherein it has been held as under:

*“7. In view of the above facts reported in the material placed as record it is evident that the assessee has received interest income of Rs.9,45,402/- (i.e. Rs.6,23,877 from FDR with Mumbai District Central Co-op. Bank and Rs.3,21,525/- from FDR with Saraswat Co-op. Bank Ltd.)*

*8. On the similar facts and issued in the various decisions of the ITAT Mumbai Benches it is held that claim of deduction u/s. 80P(2)(d) in respect of interest earned from investment made in the co-operative bank is allowable. Some of the decisions of the ITAT where the claim of deduction u/s.80P(2)(d) was allowed on the interest earned from deposit with co-operative bank are as under:*

*(i) Mittal Park Cooperative Housing Society Ltd. Vs. Asst. Director of Income Tax, Mum, W(125) (95) CPC, Bengaluru, (Ld. ADIT).*

*(ii) Mittal Park Cooperative Housing Society Vs. ITO, Ward 25 (3)(1), Mumbai.*

*(iii) Kaliandas Udyog Bhavan Premises Coop Society Ltd. Vs ITO 21(1)(2).*

*(iv) Aqua Cooperative Housing Society Limited Vs ITO 21(1)(2).*

*(v) Sea Green Cooperative Housing Society Ltd. Vs. ITO 21(3)(2).*

*(vi) Lands' End Cooperative Housing Society Ltd. Vs. ITO 16(1)(3).*

*(vii) The Nutan Laxmi Chs Ltd. Mumbai Vs. ITO 19(2)(4).*

*(viii) M/s Palmera Cooperative Housing Society Ltd. Vs. ACIT, 19(2).*

*9. In the case of Kaliandas Udyog Bhavan Premises Co-op. Society Ltd. vs. ITO vide ITA No. 6547/Mum/2017 dated 25.04.2018 it is held*



*that though the cooperative bank pursuant to the insertion of subsection (4) Sec. 80P is no more be entitled for claim of deduction u/s 80P of the Act, but however, as a cooperative bank continued to be a cooperative society registered under the Cooperative Society Act, therefore, the interest income earned by a cooperative society from its investment held that cooperative bank would be entitled for claim of deduction u/s 80P(2)(d), therefore, we direct the AO to allow the claim of deduction to the assessee in respect of interest earned from investment made with the cooperative bank, Therefore, the appeal of the assessee is allowed.”*

7. In view of above facts and respectfully following the decisions of coordinate benches, we hold that the assessee society is entitled to claim deduction u/s 80P(2)(d) in respect of interest of Rs. 5,19,119/- earned from co-operative banks during the year under consideration.

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

Order pronounced in the open court on 27.06.2024.

Sd/-

**NARENDER KUMAR CHOUDHRY**  
**(JUDICIAL MEMBER)**

Sd/-

**RENU JAUHRI**  
**(ACCOUNTANT MEMBER)**

Place: Mumbai

Date 27.06.2024

ANIKET SINGH RAJPUT/STENO

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT



4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.