

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.582/PUN/2024
निर्धारण वर्ष /Assessment Year : 2020-21

ITO, Kudal, Sindhudurg	Vs.	Sindhudurg District Primary Teachers Cooperative Credit Society, Sankalp Siddhi, 31 Oras, Sindhudurg Nagari, Kudal, Sindhudurg 416520 Maharashtra PAN : AAJAS9572R
Appellant		Respondent

Assessee by : None
Revenue by : Shri Akhilesh Srivastava
Date of hearing : 02.07.2024
Date of pronouncement : 02.07.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue against the order of National Faceless Appeal Centre (NFAC), Delhi dated 24.01.2024 for the assessment year 2020-21.

2. Briefly, the facts of the case are that the assessee is a Co-operative Society registered under the Maharashtra Co.op Societies Act, 1960. It is engaged in the business of providing credit facilities to its members and earning interest from them. The assessee society filed the Return of Income for the assessment year 2020-21 on 28.10.2020 declaring total income at Nil. The Assessing Officer (AO) during the

course of assessment proceedings noticed that the assessee society received interest/dividend income of Rs.3,40,44,467/- earned from the deposits made with another cooperative bank namely, Sindhudurg District Central Credit Co. Bank. Against the said return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 23.09.2022 passed u/s 143(3) rws 144B of the Act at a total income of Rs.3,40,44,467/-. While doing so, the Assessing Officer denied the claim of exemption of Rs.3,40,44,467/- made u/s.80P(2)(d) in respect of interest/dividend income earned out of the deposits made with Sindhudurg District Central Credit Co. Bank by holding that the Sindhudurg District Central Credit Co. Bank is not a Cooperative society.

3. Aggrieved by the above assessment order, an appeal was filed before the CIT(A)/NFAC who vide impugned order allowed the claim of deduction made by the assessee society u/s.80P(2)(d) placing reliance on the decisions of various Benches of the Tribunal as well as various High Courts mentioned in Para No.6.1.4 of the impugned order.

4. Being aggrieved, the Revenue is in appeal before the Tribunal appeal.

5. When the appeal was called on, none appeared on behalf of the respondent-assessee despite due service of notice of hearing. After hearing the ld. DR and perusing the material on record, we proceed to dispose of the appeal *ex parte* qua the respondent-assessee.

6. We heard the ld. DR and perused the material on record. We find this issue is no more *res integra* by virtue of catena of decisions passed by the Coordinate Benches of this Tribunal. In the present case, we find

that admittedly the interest income was earned from the investments out of surplus funds made with cooperative bank, the cooperative bank is also a specie of cooperative society, therefore, the interest income earned by the cooperative society from the cooperative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. On perusal of provisions of section 80P(2)(d), it is clear that the income derived by a cooperative society from its investment held with other cooperative societies shall be exempt from the total income of a cooperative society. Therefore, what is relevant for claiming of deduction u/s 80P(2)(d) is that interest income should have been derived from the investment made by the assessee cooperative society with any other cooperative society. This issue was considered by the Hon'ble Karnataka High Court in the case of *CIT vs. Totagars Cooperative Sale Society*, 392 ITR 74 (Karn) wherein the Hon'ble High Court after referring to the decision of the Hon'ble Supreme Court in the case of *Totgar's Co-operative Sale Society Ltd.Vs. ITO (2010) 322 ITR 283(SC)* held that the ratio of decision of the Hon'ble Supreme Court is not to be applicable in respect of interest income on investment as same falls under the provisions of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act.

7. In the light of this discussion, we are of the considered opinion that the interest income earned by cooperative society on deposits made out of surplus funds with cooperative banks qualify for deduction under the provisions of section 80P(2)(d) of the Act.

8. Thus, the order passed by the CIT(A)/NFAC is in conformity with the settled position of law. Therefore, we affirm the impugned order allowing the claim of exemption u/s.80P(2)(d) on the interest income earned on deposits made out of surplus funds with Cooperative banks.

9. In the result, the appeal filed by the Revenue is dismissed.
Order pronounced on this 02nd day of July, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 02nd July, 2024

Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune