

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 Nos.723 & 724/PUN/2024

निर्धारण वर्ष /Assessment Years : 2018-19 & 2020-21

Shri Sai Arihant Nagari Sahakari Patsantha Ltd., A/P/ Shirdi, Tal. Rahata, Ahmednagar – 423109 Maharashtra PAN : AAABS0599Q	Vs.	ITO, Ward-1, Ahmednagar
Appellant		Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Akhilesh Srivastava

Date of hearing : 02.07.2024
Date of pronouncement : 02.07.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are two appeals filed by the assessee directed against the separate orders of National Faceless Appeal Centre (NFAC), Delhi dated 11.03.2024 for the assessment years 2018-19 & 2020-21.

2. Since the identical facts and common issues are involved in the above captioned appeals of the assessee, we proceed to dispose of the same by this common order. For the sake of convenience and clarity, the facts relevant to the appeal of the assessee in ITA No.723/PUN/2024 for the assessment year 2018-19 are stated herein.

ITA No.723/PUN/2024 - A.Y. 2018-19 :

3. Briefly, the facts of the case are that the appellant is a Co-operative Credit Society registered under the Maharashtra Cooperative Societies Act, 1960. It is engaged in the business of accepting deposits from the members and providing credit facilities to them. The appellant society filed the Return of Income for the assessment year 2018-19 on 20.09.2018 declaring income of Rs. Nil after claiming deduction u/s.80P(2)(d) of the Income Tax Act, 1961 ('the Act') of Rs.1,53,24,770/-. Against the said return of income, the assessment was completed by the Assessing Officer') vide order dated 20.04.2021 passed u/s 143(3) r.w.s.144B of the Act assessing total income of Rs.1,53,24,770/-. While doing so, the Assessing Officer had denied the exemption u/s.80P(2)(d) in respect of interest income earned out of the deposits made with Cooperative banks as well as Nationalised banks.

4. Being aggrieved, an appeal was filed before the CIT(A)/NFAC who vide impugned order confirmed the action of the Assessing Officer.

5. Assailing the order of CIT(A)/NFAC, the appellant society is in appeal before the Tribunal.

6. We heard the rival submissions and perused the material on record. The only issue that arises for our consideration is whether or not the appellant society is eligible for deduction of interest income earned out of deposits made with Cooperative banks/Nationalised banks u/s.80P(2)(d)/80P(2)(a)(i) of the Act. We find that this issue is no more *res integra* by virtue of catena of decisions of the Coordinate Benches of this Tribunal.

7. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(a)(i) in respect of interest income earned by a cooperative society from the cooperative banks/scheduled banks, there is a cleavage of judicial opinion amongst several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann.com 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR 371 took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s 80P(2)(a)(i) of the Act. Similar view has been taken by the Hon'ble Calcutta High Court in the case of PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta) and the Hon'ble Madras High Court in the case of Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras). The

Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Following the decision of the Coordinate Bench of the Tribunal, we are of the considered opinion that the interest income earned on fixed deposits with cooperative bank/scheduled bank partakes character of the business income, which is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, we direct the Assessing Officer to allow the exemption u/s.80P(2)(a)(i) even though not eligible for deduction u/s.80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

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

ITA No.724/PUN/2024 –A.Y. 2020-21 :

9. The facts stated in ITA No.723/PUN/2024 are identical even in appeal bearing ITA No.724/PUN/2024. The finding given in ITA No. No. 723/PUN/2024 equally holds good for the appeal ITA No. 724/PUN/2024.

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

11. To sum up, both the appeals filed by the assessee are allowed.

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