

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.351/Nag./2023
(Assessment Year : 2014-15)

Income Tax Officer, Yawatmal

..... Appellant

v/s

Shri Agrasen Nagari Sahakari Patsanstha Ltd.
Patrakar Colony, Yawatmal 445 001
PAN – AAPFS6541P

..... Respondent

Assessee by : Shri Pravin Gandhi
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 08/07/2024

Date of Order – 08/07/2024

ORDER

PER V. DURGA RAO, J.M.

The present appeal has been filed by the Revenue challenging the impugned order dated 05/09/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2014-15.

2. The Revenue has raised following grounds:–

“1. Whether on facts and circumstances of the case, the Id. CIT(A) was justified in holding that this a case of change of opinion without establishing that the AO had formed an opinion during the course of assessment proceedings that interest income from investments was operational in nature and therefore, eligible of deduction u/s 80P(2)(a) (i) of the Act for claim

2. Whether on facts and circumstances of the case, the Id. CIT(A) was justified in holding that this is a case of invalid reopening based on reappraisal of existing material without verifying, whether, during the course of

assessment proceedings, the assessee had disclosed all material facts fully and truly, by submitting that the interest income on investments is operational in nature and eligible for claim of deduction u/s 80P(2)(a) (i) of the Act?

3. Facts in Brief:- In the present case, the assessee is a Credit Co-operative Society, registered under the Maharashtra Co-operative Societies Act, 1960, and the main activity of the assessee is to provide credit facilities to its Members and other incidental activities within its objects by way of accepting deposits and lending money to its members. The assessee, for the year under consideration, filed its return of income disclosing loss of ₹ (-) 36,57,344, and has claimed deduction under section 80P(2)(a)(i) of the Income Tax Act, 1961 ("*the Act*"). During the proceedings, the Assessing Officer, on a perusal of Profit & Loss A/c, noticed that the assessee has received interest of ₹ 41,53,490, from Akola Janta Co-operative Bank, Yavatmal Urban Co-operative Bank, Washim Urban Co-operative Bank, etc. The Assessing Officer disallowed interest of ₹ 41,53,490, and concluded the assessment under section 147 r/w 144B of the Act on 25/03/2022. Aggrieved, the assessee carried the matter before the first appellate authority.

4. The learned CIT(A) allowed the appeal of the assessee.

5. Before us, when this appeal was taken up, the learned A.R. submitted that the this issue is deduction claimed under section 80P(2)(i)(a) of the Act is squarely covered by the decision of the Co-ordinate Bench of the Tribunal rendered in Vivekanand Nagri Sahakari Pat Sanstha Maryadit v/s ITO, ITA no.113-115/Nag./2023, for the assessment year 2016-17 to 2018-19, vide

order dated 15/05/2024, and strongly relied on the order of the learned CIT(A).

6. On the other hand, the learned Departmental Representative supported the order of the Assessing Officer.

7. We have heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below. The issue for our adjudication involved in the present appeal is, whether or not the assessee is eligible for claiming deduction under section 80P(2)(a)(i) of the Act on account of interest received from Credit Co-operative Banks. We find that identical issue has been decided by the Co-ordinate Bench, ITAT, Nagpur Bench, Nagpur, wherein this Bench is a party to that order in Vivekanand Nagri Sahakari Pat Sanstha Maryadit (supra). The Bench has decided this issue in favour of the assessee and against the Revenue. The relevant finding of the Bench are reproduced below:-

"12. We have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. The only issue in the present case is, allowability of exemption under the provisions of section 80P in respect of interest income earned by a Co-operative Society from the Bank of Maharashtra. In this regard, we are of the considered opinion that even the interest income earned by co-operative society on deposits made out of surplus funds with cooperative banks as well as schedule bank qualifies for deduction both under the provisions of section 80P(2)(a)(i) and section 80P(2)(d) of the Act, therefore, the reasoning given by the lower authorities on this issue cannot be accepted. Consequently, we hold that interest income earned by the Co-operative Society from the Bank is eligible for exemption under section 80P of the Act and hence, we direct the Assessing Officer to allow deduction under section 80P(2)(a)(i) in respect of interest income earned by the Co-operative Society from the Bank. Thus, ground of appeal raised by the assessee stands allowed."

2. Consequent upon following the aforesaid decision of the Co-ordinate Bench of the Tribunal and consistent with the view taken therein, we hold that the learned CIT(A) has rightly allowed the deduction claimed by the assessee under section 80P(2)(i)(a) of the Act. Accordingly, for the reasons set out above, we see no infirmity in the impugned decision of the learned CIT(A) and uphold the same by dismissing the grounds of appeal raised by the Revenue.

8. In the result, appeal filed by the Revenue's is dismissed.

Order pronounced in the open Court on 08/07/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 08/07/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur