

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 1290/Mum/2024

Assessment Year: 2020-21

Prithavi Apartments Co-op. Hsg. Society Ltd., Mumbai 21, Altamount Road Grant Road Mumbai -400026 [PAN: AAAAP23333A]	Vs	Assessment Unit Income Tax Department, Mumbai
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Anuj Kisnadwala, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 09/07/2024
घोषणा की तारीख /**Date of Pronouncement**: 09/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dt. 13/03/2024 by NFAC, Delhi for the Assessment Year 2020-21.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in confirming the action of the Assessing Officer (AO) and not granting the deduction u/ 80P(2)(d) of the Act.

3. The assessee society filed its return of income on 25/01/2021, declaring total income of Rs.9,25,620/-. The return was selected for scrutiny assessment under CASS and accordingly statutory notices were issued and served upon the assessee.

4. During the course of scrutiny assessment proceedings, the AO noticed that the assessee has earned interest income amounting to Rs.41,47,046/- and claimed deduction amounting to Rs.32,21,422/- u/s 80P(2)(d) of the Act. The AO was of the opinion that the assessee is not

eligible for the said deduction u/s 80P(2)(d) of the Act and accordingly disallowed the claim.

4.1. The assessee carried the matter before the Id. CIT(A) but without any success.

5. Before us, the Id. Counsel for the assessee outrightly stated that similar issue arose for AY 2017-18 in assessee's own case and the Tribunal has decided in favour of the assessee and against the revenue. The Id. Counsel for the assessee supplied copy of the order of the Tribunal.

The Id. D/R strongly supported the findings of the AO but could not bring any distinguishing decision in favour of the revenue.

6. We have given a thoughtful consideration to the orders of the authorities below. We find force in the contention of the Id. Counsel for the assessee. Identical issue was decided by the Co-ordinate Bench in the assessee's own case for AY 2017-18 in ITA No. 222/Mum/2024.

The relevant finding of the Tribunal reads as under:-

"8. We have carefully considered the rival contention and perused the orders of the lower authorities. We have also carefully considered the several judicial precedents relied upon by both the parties as well as mentioned in the assessment order as well as the appellate order.

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

19)	<i>"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 ;</i>
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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

<i>(d)</i>	<i>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;</i>
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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.

16. Thus the assessee is eligible for deduction under section 80 P (2) (d) of the act on its income received from all the above cooperative banks. Hence assessee is eligible for that deduction amounting to Rs. 27,63,665/-. Accordingly the orders of the lower authorities are reversed. Thus ground number 1 of the appeal is allowed."

7. Respectfully following the decision of the Co-ordinate Bench (*supra*), we direct the AO to allow the impugned deduction.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 9th July, 2024 at Mumbai.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 09/07/2024

SC SPS

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

1. ँ पीलर्डी / The Appellant
2. प्रत्यर्डी / The Respondent
3. संबंघित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभर्गीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
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Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai