

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

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.180/PUN/2024
निर्धारण वर्ष / Assessment Year: 2020-21

ITO, Ward-2, Ahmednagar.	Vs.	Samta Gramin Bigarsheti Sahakari Patsanstha Maryadit, Newasa Shevgaon Road, Kukana, Tal. Newasa, Dist.-Ahmednagar- 414604. PAN : AACAS1915K
Appellant		Respondent

Assessee by : Smt. Payal Rathi
Revenue by : Shri Sourabh Nayak
Date of hearing : 26.06.2024
Date of pronouncement : 15.07.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the Revenue is directed against the order dated 14.12.2023 passed by LD CIT(A)/NFAC for the assessment year 2020-21.

2. The appellant has raised the following grounds of appeal :-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in allowing the deduction of Rs.1,54,02,646/- u/s 80P(2)(d) of the Act, as the assessee claimed deduction u/s 80P(2)(d) in respect of the interest income from investment, which is not the operational income.

2. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the deduction u/s 80P(2)(d) of the Income Tax Act without considering the decision of Hon'ble High Court of Karnataka in the case of Principal Commissioner of Income-tax, Hubballi Vs Totagars Co-operative Sale Society [395 ITR 611] dated 16/06/2017.*
3. *On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in allowing the deduction u/s 80P(2) (d) of the Act, without proper verification of the facts as to how the investments made by the assessee with other cooperative banks generated the operational income of the assessee, considering the facts that the business operations of the assessee is to provide credit facilities to its members and accepts deposits from them.*
4. *The appellant craves leave to add, alter, amend and modify any of the above or all grounds raised at time of proceedings before the Hon'ble Tribunal which may please be granted."*

3. The facts, in brief, are that the respondent-assessee is a credit co-operative society engaged in the business of providing credit facilities to its members. The return of income for the assessment year 2020-21 was filed on 22.12.2020 declaring gross total income of Rs.1,55,94,446/- and total income of Rs.1,91,800/- after claiming deduction of Rs.1,54,02,646/- u/s 80P2(a)(i) of the IT Act. The said return of income was processed u/s 143(1) of the IT Act. Subsequently, the case of the assessee was selected for Complete Scrutiny to examine the following issues :-

- (i) High Creditors/liabilities
- (ii) High interest expenditure/finance cost and

(iii) Deduction from total income under Chapter VI-A

Accordingly, notices u/s 143(2) and 142(1) of the Act were issued. After considering the reply of the assessee, the AO issued show cause notice along with draft assessment order requesting the assessee as to why the interest income earned from co-operative banks should not be disallowed. In response thereto, the assessee filed reply to the AO stating that the assessee claimed deduction u/s 80P(2)(a)(i) of the Act to the extent of Rs.1,54,02,646/- and requested to allow deduction u/s 80P(2)(d) of the Act. Further, the assessee had submitted to the AO that it had inadvertently claimed the deduction of interest income u/s 80P(2)(a)(i) of the Act instead of 80P(2)(d) of the Act. The AO considered the reply of the assessee but not found acceptable and completed the assessment u/s 143(3) r.w.s. 144B of the Act on 26.09.2022 assessing total income at Rs.1,55,94,450/- by disallowing the deduction of Rs.1,54,02,646/- claimed u/s 80P of the Act.

4. Being aggrieved with the above assessment order, an appeal was preferred before the ld. CIT(A)/NFAC. After considering the reply of the assessee & referring various judgements, in first appeal LD CIT(A)NFAC agreed to the proposition that the interest

income earned by the assessee cooperative society, from other cooperative banks who are also registered cooperative society, is entitled for deduction u/s 80P(2)(d) of the IT Act & therefore allowed the appeal of the assessee vide order dated 14-12-2023 & directed the AO to allow the deduction u/s 80P(2)(d) of the IT Act.

5. Being aggrieved with the decision of the ld. CIT(A)/NFAC, the Revenue is in appeal before this Tribunal.

6. LD DR submitted before us that the LD CIT(A)/NFAC was not justified in allowing the appeal of the assessee without considering the judgement of Hon'ble Karnataka High Court in the case of PCIT vs. Totagars Cooperative Sale Society, 395 ITR 611 (Kar.). It was contended before the bench that in the light of above judgement interest income is not deductible u/s 80P(2)(d) of the IT Act. It was therefore requested before the bench to set-aside the order passed by LD CIT(A)/NFAC & restore the order passed by the AO.

7. LD AR in reply submitted before us that the issue of interest income earned by a cooperative society form its investment with other cooperative society is no more *res integra* as in number of decisions passed by ITAT Pune Benches, Pune it has already been

decided that such interest is deductible u/s 80P(2)(d) of the IT Act. LD AR further relied on a decision passed by the Coordinate Bench of this Tribunal in the case of Dhanshree Multistate Cooperative Society Ltd. in ITA No.463/PUN/2024 order dated 13-06-2024, wherein departmental appeal was dismissed on identical issue. It was submitted that in the case of Dhanshree Multistate Cooperative Society Ltd., the AO also relying on the judgement of Totagars Cooperative Sale Society (supra), disallowed the deduction claimed u/s 80P(2)(d) of the IT Act in respect of interest income earned from other cooperative society. But in first appeal LD CIT(A) was pleased to allow the appeal of the assessee & when the Revenue preferred 2nd appeal against the above first appeal order, a coordinate bench of this Tribunal was also pleased to dismiss the appeal of the Revenue. It was therefore contended that the matter is a covered one by decision of a coordinate bench of this Tribunal & hence the appeal filed by the Revenue deserves to be dismissed.

8. We have heard LD Counsels from both the sides & perused the material available on record. We find that a similar addition was made in the case of Dhanshree Multistate Cooperative Society

Ltd. (supra) which was deleted by LD CIT(A) and a coordinate bench of this Tribunal has already confirmed the order passed by LD CIT(A) by dismissing the appeal of the Revenue. We further find that a coordinate bench of this Tribunal has already decided identical issues in the case of Rena Sahkari Sakhar Karkhana Ltd. in ITA No.1249/PUN/2018. It is also worthwhile to refer another decision of the coordinate bench of this Tribunal in the case of Karmveer Bhaurao Patil Nagri Sahkari Patsanstha Maryadit vs. ITO vide ITA No.1045/PUN/2023 order dated 21-02-2024, wherein under the similar circumstances a coordinate bench of this Tribunal has decided identical issue & allowed the deduction u/s 80P2(d) of the IT Act by observing in para 10 of the order as under :-

“10. Without multiplying judicial precedents on the aforesaid issue, maintaining same parity we adopt equi reasoning and hold that, the interest income earned by the appellant society from its investment held with other co- operative banks since being a registered co-operative society under respective state laws, qualifies for deductions u/s 80P(2)(d) of the Act. Resultantly, we set-aside the impugned orders and reverse the denial of deduction.”

9. Therefore respectfully following the above decisions, we do not find any infirmity in the order passed by LD CIT(A)/NFAC, consequently the appeal filed by the Revenue is dismissed.

10. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open Court on 15th July, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 15th July, 2024.

Sujeet

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.