

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, MUMBAI**

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 733/MUM/2024  
(Assessment Year: 2015-16)**

**The United Co-operative Credit Society Ltd.,**  
111 Alupura Building, 19<sup>th</sup> Navroji Hill Road,  
Dongri, Maharashtra - 400009  
[PAN: AAAAT0445P]

..... **Appellant**

Vs

**ITO Ward 17(3)(5)**  
Mumbai - 400064

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Samir Vadsaria  
For the Respondent/Department : Shri Himanshu Sharma

**Date**

Conclusion of hearing : 01.07.2024  
Pronouncement of order : 16.07.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order dated 19/12/2023, passed by the Learned Commissioner of Income Tax, Appeals - ADDL/JCIT (A)-12 Delhi, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2015-16, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 09/12/2017, passed by the Income Tax Officer 17(3)(5), Mumbai under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. All the grounds raised in the present appeal are directed against the order of CIT(A) dismissing the appeal against the assessment order and thereby, confirming the disallowance of INR 19,60,295/- made by the Assessing Officer in respect of deduction claimed by the Appellant in the return of income under Section 80(P)(2)(d) of

the Act for the interest income received from co-operative banks.

3. We have considered the rival submission and perused the material on record. There is no dispute on facts. Sole issue that arises for consideration in the present appeal is whether a co-operative society is eligible to claim deduction under Section 80(P)(2)(d) of the Act in respect of interest income received from a co-operative bank.
4. We find that the aforesaid issue is no longer res-integra and stands decided in favour of assessee.
  - 4.1. The Assessing Officer has invoked provisions of Section 80P(4) of the Act while disallowing deduction claimed by the Appellant under Section 80P(2)(d) of the Act. In the case of **Mavilayi Service Co-operative Bank Ltd. vs. Commissioner of Income Tax, Calicut: [2021] 431 ITR 1 (SC)[12-01-2021]**, the Hon'ble Supreme Court has held that the provision of Section 80P(4) are attracted only in case of co-operative society holding a banking license issued by the Reserve Bank of India (RBI). It is not the case of the Revenue that the Assessee is either registered with RBI under Banking Regulation Act, 1949 and/or hold any license issued by RBI. Therefore, provisions of Section 80P(4) of the Act would not get attracted in the case of the Appellant.
  - 4.2. As per Section 80P(2)(d) of the Act, for the purpose of claiming deduction under the aforesaid provision interest must be received from a 'co-operative society'. A co-operative society is defined in Section 2(19) of the Act as being a co-operative society registered either under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies. In the case of **Kaliandas Udyog Bhavan Premises Co-operative Society Ltd. vs. ITO: ITA No. 6547/Mum/2017, dated 24.04.2018**, after examining

the judgment of the Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. vs. ITO (2010) 322 ITR 283 (SC), which was followed by the Hon'ble Karnataka High Court in the case of Pr.CIT vs. Totgars Co-operative Sale Society Ltd.: 2017 395 ITR 611 (Kar), and after taking into account the insertion of Section 80P(4) of the Act vide the Finance Act, 2006, the Mumbai Bench of the Tribunal had held that co-operative bank continues to be a co-operative society and therefore, assessee receiving interest from a co-operative bank would be eligible to claim deduction under Section 80P(2)(d) of the Act in respect of interest so received. To the same effect are the decisions of the Tribunal in the case of **Lands End Co-operative Housing Society Ltd. Vs. ITO [ITA No.3566/Mum/2014, dated 15/01/2016]**, M/s Sea Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai [ITA No. 1343/Mum/2017, dated 31/03/2017], and Mystique Rose Cooperative Housing Society Ltd.: vs. ITO 22(2)(3) [ITA No. 1290/Mum/2021, dated 30/03/2022].

5. In view of the above, disallowance of INR,19,60,295/- made by the Assessing Officer cannot be sustained. The Assessing Officer is directed to allow deduction of INR.19,60,295/- under Section 80P(2)(d) of the Act. Ground No. 2, 3 and 4 raised by the Appellant are allowed; while all other grounds raised by the Appellant are dismissed as being infructuous.
6. In result, in terms of paragraph 4 above, appeal preferred by the Assessee is allowed.

Order pronounced on 16.07.2024.

**Sd/-**  
**(Narendra Kumar Billaiya)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 16.07.2024

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai