

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA.No.1800/Mum./2024  
Assessment Year 2012-2013

Raheja Centre Premises Co-operative Society Limited, Basement Raheja Centre, Plot No.214, Free Press Journal Marg, Nariman Point, Mumbai - 400 021 Maharashtra PAN AAFAR7232M	vs.	The Income Tax Officer, Ward-17(3)(1), Room No.125, 1 <sup>st</sup> Floor, Kautilya Bhawan, C- 41 to C-43, G-Block, Bandra- Kurla Complex, Bandra (East), Mumbai - 400 051. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Shekhar Gupta
For Revenue :	Smt. Mahita Nair, Sr. DR

Date of Hearing :	10.07.2024
Date of Pronouncement :	18.07.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal, for assessment year 2012-2013, arises against National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1063571518(1), dated 28.03.2024, in proceedings u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the assessee's instant appeal hardly requires us to delve into the relevant factual matrix at length. This is for the precise reason that the learned CIT(A)-NFAC's impugned directions herein whilst confirming the Assessing Officer's assessment dated 18.12.2017 to the extent he had disallowed this taxpayer's section 80P deduction claim of Rs.68,02,810/- derived from cooperative bank(s).

3. Both the learned representatives vehemently reiterated their respective stands against and in support of the order of the CIT(A)-NFAC. The assessee more particularly relied on the order of the coordinate bench's order of this tribunal's order Indian Oil Employees Welfare Cooperative Society Limited vs. ACIT ITA.No.3518/MUM./2023 date of decision on 22.02.2024 had rejected the Revenue's contentions as under :

*"17. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The only issue in this appeal is whether the assessee Indian oil*

*employees welfare cooperative societies Ltd is eligible for deduction of bank interest earned from cooperative banks under section 80 P (2) (d) or (a) of the act or not.*

*18. Assessee is a co-operative society primarily engaged into arranging for prompt payment to beneficiaries of diseased employees. In addition, arrangements have been made to refund the welfare Society dues to employees who ceases to the member of the society due to superannuation, voluntary retirement, termination, resignation etc. For these purpose contribution towards capital in monthly deduction from salary and subscription to the society is made by the members. Such surplus is kept by the assessee with the cooperative banks and interest thereon is earned.*

*19. According to the provisions of section 80 P, wherein case of an assessee being a co-operative society the gross total income includes any income referred to in subsection (2) it shall be deducted in accordance with and subject to the provisions of the section in computing the total income of the assessee. According to subsection (2) in case of a co- operative society engaged in*

*carrying on the business of banking or providing credit facilities to its member is eligible for deduction of the whole of the amount of profits and gains of business attributable to anyone or more of such activities. The claim of the revenue authorities is that the amount of interest earned by this entity is not the business income of the assessee and therefore, the interest income does not fall into the amount of profits and gains of business attributable to the activities of the society. Therefore the deduction under section 80 P (2) (a) of the act is denied. However, we find that if the assessee is a co-operative society, then according to subsection 2 (d) in respect of income earned by way of interest or dividends received by the cooperative society from its investment with any other cooperative society, then the whole of such income is deductible. According to the provisions of subsection (4), the provision of section 80 P shall not apply in relation to any cooperative bank or any other specified cooperative society. That means according to this provisions the deduction is not allowable to these entities i.e. Cooperative banks. Assessee is not a cooperative bank. Admittedly, the office of Central registrar of cooperative*

*societies, New Delhi has issued a certificate of registration to the assessee registering it under section 11 of The Multistate Cooperative Societies Act, 2002. Therefore, it is not an issue in dispute that whether the assessee is a co-operative society or not. Accordingly, the income earned by a co-operative society by way of interest derived by from its investment with any other cooperative society, then the whole of such income is deductible. Further the amount of interest received by the assessee from the different cooperative banks; it is not the claim that those banks are also not cooperative societies. It is agreed that those are also the cooperative bank in terms of The Banking Regulation Act, 1949. Therefore even if it is accepted that bank interest on from cooperative banks by the assessee is not the income from the business of the assessee and therefore the claim of the assessee fails under section 80 P (2) (a) of the act, but the claim is still allowable and therefore cannot be denied under section 80 P (2) (d) of the act. This issue is also covered in favour of the assessee by the decision of the honourable Supreme Court in case of Kerala State Co-Operative Agricultural & Rural Development Bank Ltd. [2023] 154 taxmann.com 305*

*(SC)/where the deduction was allowable to the state level agricultural and rural development bank, was engaged in providing credit facility to its members . The case of the assessee is on far better footings that these are society of only the employees of Indian oil Corporation. In view of the above facts, we direct the learned lower authorities to allow the deduction to the assessee on interest income earned from various cooperative banks under section 80 P (2) (d) of the act.*

*20. Accordingly, both the appeals of the assessee are allowed.”*

4. We adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee’s arguments. The learned CIT(A)-NFAC’s directions stand reversed. Ordered accordingly.

5. This assessee’s appeal is allowed in above terms.

Order pronounced in the open Court on 18.07.2024

Sd/-  
[GIRISH AGARWAL]  
ACCOUNTANT MEMBER  
Mumba, Dated 18<sup>th</sup> July, 2024  
VBP/-

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

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2.	The respondent
3.	The Pr. CIT, Mumbai concerned
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//By Order//

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Asst. Registrar, ITAT, Mumbai Benches,  
Mumbai.