

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "F", MUMBAI

Before Justice (Retd.) C V Bhadang, Hon'ble President &
Shri B R Baskaran, Hon'ble Accountant Member

ITA No. 1103/Mum/2024
(Assessment Year:2017-18)

Fortune Heights Co-Operative Housing Society Limited, 298/299, Fortune Heights, L J Road, Mahim, Mumbai 400 016 PAN AAAAF1757G (Appellant)		Income Tax Officer Ward 22(1)(7), Mumbai. (Respondent)
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For the Assessee : Shri Ashish Thakurdesai
For the Revenue : Ms. Rajeshwari Menon, Sr. DR

Date of Hearing : 05.06 .2024	Date of Pronouncement : 9.07.2024
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ORDER

Per B R Baskaran, Accountant Member:

The assessee has filed this appeal challenging the order dated 13-05-2022 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2017-18. The only issue urged relates to the eligibility of the assessee to claim deduction u/s 80P(2)(d) of the Act in respect of interest income earned on deposits kept with Cooperative banks.

2. The appeal is barred by limitation by 668 days. The assessee has filed a petition requesting the bench to condone the delay. In the affidavit, it is stated that the income tax matters were looked after by Shri Ranjit Prabhavalkar and he only made submissions before Ld CIT(A). The order of

Ld CIT(A) was issued on 13.5.2022 and the above said Shri Ranji Prabhavalkar fell ill due to paralytic attack in June 2022. It is submitted that the society was fully dependent upon in this regard. Since he was confined to bed for long time and inactive, the society has approached a new Chartered Accountant and thereafter, the present appeal was filed. It is further stated that there was no malafide intention whatsoever in filing the appeal belatedly. Accordingly, it is prayed that the delay be condoned and the appeal be admitted.

3. We heard Ld D.R on this preliminary issue. Having regard to the submissions made in the affidavit by the assessee, we are of the view that there was reasonable cause for the assessee in filing the present appeal belatedly. Accordingly, we condone the delay and admit the appeal for hearing.

4. The only issue urged in this appeal relates to the eligibility of the assessee to claim deduction u/s 80P(2)(d) of the Act in respect of interest income of Rs.4,15,660/- earned on deposits kept with co-operative bank.

5. The assessee is a co-operative society and it has earned interest income of Rs.4,15,660/- from deposits kept with co-operative banks. The assessee claimed the same as deduction u/s 80P(2)(d) of the Act. The AO rejected the said claim and the Ld CIT(A) also confirmed the same. Aggrieved, the assessee has filed this appeal.

6. We notice that an identical issue has been decided by the Hon'ble Madras High Court in the case of Thorapadi Urban Co-op Credit Society Ltd (2023)(156 taxmann.com 419)(Mad) in favour of the assessee. The relevant observations made by Hon'ble Madras High Court are extracted below:-

"8. The main issue is to decide in the present case is as to whether the petitioner Co-operative Society is entitled for a deduction for the interest income received from the Co-operative Bank?"

9. It would be appropriate to extract hereunder the relevant portion of Section 80P(2)(d).

“80 P. Deduction in respect of income of cooperative societies:

(1)

(2) The sums referred to in sub-section (1) shall be the following, namely :—

(a) to (c)

(d) “in respect of any income by way of interest or dividends derived by the co-operative society from its investment with any other co-operative society, the whole of such income”

9.1 A reading of the above said provision makes it clear that in the event if any Co-operative Society derived income by way of interest from investment made in any other Co-operative Society the whole such interest is eligible for deduction. Now the issue is as to whether the Co-operative Bank would fall within the purview of the term ‘Co-operative Society’. In the present case, the petitioner produced a document to show that the Co-operative Bank, where they have made investments was registered under the Tamil Nadu Co-operative Societies Act, 1983 on 20.5.2003. In this regard, he also produced a copy of the Certificate of Incorporation of the said Co-operative Bank. Therefore, it is clear that the investment made by the petitioner is a Co-operative Bank registered under the Co-operative Societies Act. The Income Tax Act, 1961 has also defined ‘Co-operative Society’ under Section 2(19) as follows:

“2(19). “Co-operative society” 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.”

10. A reading of the above definition would make it clear that ‘Co-operative Society’ means a Co-operative Society registered under Co-operative

Societies Act, 1912. Thus, a Co-operative Society referred therein is only a co-operative society as defined under the Act, be it a Co-operative Society carrying on banking business or Co-operative Society carrying on the other businesses or a Co-operative bank.”

7. Following the above said decision of Hon’ble Madras High Court, this bench of Tribunal has held in the case of Backbay Premises Co-op Society Ltd (ITA Nos. 4144 & 4146/Mum/2023 dated 14.06.2024) that the interest income earned by a co-operative society from co-operative banks are eligible for deduction u/s 80P(2)(d) of the Act.

8. In view of the above discussions, we are of the view that the tax authorities are not justified in denying deduction u/s 80P(2)(d) of the Act in respect of interest income earned by the assessee from deposits kept co-operative banks. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to allow deduction u/s 80P(2)(d) to the assessee on the interest income earned from deposits kept with co-operative banks.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 9th July, 2024.

Sd/-

**(Justice(Retd.) C V Bhadang)
PRESIDENT**

Mumbai, Dated : 9th July, 2024
SA

Sd/-

**(B R Baskaran)
ACCOUNTANT MEMBER**

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT,
4. The CIT
5. The DR, ‘F’ Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai