

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

**MS. PADMAVATHY S, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2454/MUM/2024  
(Assessment Year: 2015-16)**

**Raheja Chambers Premises Cooperative Society Limited,**  
1<sup>st</sup> Floor 213, Raheja Chambers,  
Nariman Point, Mumbai – 400021  
[PAN: AAAAR1054L]

..... **Appellant**

**National Faceless Appeal Centre (NFAC)**  
**Income Tax Department, Delhi/**  
**Assistant Commissioner Income Tax,**  
212, Kautiliya Bhavan, Ward 26(1)(1),  
Mumbai - 400051

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Manoj Dixit  
For the Respondent/Department : Shri Nayanjyoti Nath

**Date**

Conclusion of hearing : 22.07.2024  
Pronouncement of order : 29.07.2024

---

**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order dated 15/04/2024, passed by the National Faceless Appeal Centre (NFAC), 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 30/06/2017, passed by the Income Tax Officer 17(3)(1), 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 and thereby, confirming the disallowance of INR 71,88,117/- made 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 and the consequential levy of interest.

3. We have considered the rival submission and perused the material on record. There is no dispute on facts. The core issue that arises for consideration is whether a co-operative society is entitled 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 above issue is no longer res-integra and stands decided in favour of assessee.
- 4.1. Bare perusal of provisions of Section 80P(2)(d) of the Act shows that for purposes of eligibility for deduction under Section 80P(2)(d) of the Act, interest must be received from a 'co-operative society'. A co-operative society is defined in Section 2(19) of the IT 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 has held that co-operative bank continues to be a co-operative society and therefore, the 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].

- 4.2. The judgment of the Hon'ble Supreme Court in the case of **Totgars Cooperative Sale Society Ltd. vs. ITO (2010) 322 ITR 283 (SC)** was rendered in the context of Section 80P(2)(a) of the Act (wherein expression '*the whole of the amount of profits and gains of business attributable to any one or more of such activities*' has been used), whereas in Section 80P(2)(d) of the Act expression used is '*any income by way of interest*'. Thus, 'any income by way of interest' derived by a co-operative society (from a co-operative bank) would be eligible for deduction under Section 80P(2)(d) of the Act irrespective of the fact that such interest income is taxable as '*profits and gains of business*' or as '*income from other sources*' since Section 80P(2)(d) uses the expression '*any income*' and not '*profits & gains of business*'.
- 4.3. Further, 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 banking license issued by RBI. Therefore, provisions of Section 80P(4) of the Act would not get attracted in the case of the Appellant. Therefore, deduction

claimed by the Appellant under Section 80P(2)(d) of the Act cannot be denied by invoking provisions of Section 80P(4) of the Act.

5. In view of the above, order passed by the Assessing Officer and CIT(A) cannot be sustained. Appellant's claim of deduction of INR.71,88,117/- under Section 80P(2)(d) of the Act in respect of interest received from a co-operative bank is allowed. The Assessing Officer is directed to re-compute interest under Section 234A/B of the Act accordingly. Ground No. 3, 4 and 5 raised by the Appellant are allowed; and therefore, Ground No. 1, & 2 are dismissed having been rendered infructuous.
6. In result, in terms of paragraph 5 above, appeal preferred by the Assessee is allowed.

Order pronounced on 29.07.2024.

**Sd/-**  
**(Ms. Padmavathy S)**  
**Accountant Member**

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

मुंबई Mumbai; दिनांक Dated : 29.07.2024  
Poonam mirashi  
Stenographer

**आदेश की प्रतिलिपि ँ ग्रेषित/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