

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.888/PUN/2024

निर्धारण वर्ष / Assessment Year : 2020-21

Shri Vivekvardhini Nagari Sahakari Patsanstha Ltd., House No.2030/6486, Vivek Bhuvan, Jamner Road, Pachora, Jalgaon – 424201 Maharashtra PAN : AAZAS8226N	Vs.	ITO, Ward-1(4), Jalgaon
Appellant		Respondent

Assessee by : Shri Naimish Dixik  
Revenue by : Shri Sourabh Nayak

Date of hearing : 24.07.2024  
Date of pronouncement : 05.08.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 20.03.2024 for the assessment year 2020-21.

2. Briefly, the facts of the case are that the appellant is a Cooperative society registered under the Maharashtra Cooperative Society Act, 1960. It is engaged in providing credit facilities to its members. The Return of Income for the assessment year 2020-21

was filed on 26.01.2021 declaring total income at Nil after claiming exemption u/s 80P(d)(a)(i) of the Income Tax Act, 1961 ('the Act') of Rs.70,50,472-. The case was selected for complete scrutiny for verification of (i) Deduction from Total Income (Chapter VI-A (Business ITR) and (ii) Low income in comparison to very high investments appearing in balance sheet. Against the said return of income, the assessment was completed by the Assessing Officer vide order dated 27.09.2022 passed u/s 143(3) r.w.s.144B of the Act determining total income at Rs.58,93,710/-. While doing so, the Assessing Officer had brought to tax the interest income of Rs.58,93,710/- earned on FDs with other co-operative banks/commercial banks and other financial institutions holding that the said interest does not qualify for deduction u/s 80P(2)(a)(i) of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A)/NFAC, who vide impugned order confirmed the action of the Assessing Officer placing reliance on the decision of Hon'ble Supreme Court in the case of *Totagar's Cooperative Sale Society Ltd. Vs. ITO (2010) 322 ITR 283 (SC)* and the decision of Hon'ble Karnataka High Court in the case of *Pr.CIT Vs. Totagar's Cooperative Sale Society (2017) 395 ITR 611 (Karnataka)*. Further, it was held that no expenditure is attributable in merely making a deposit in Cooperative Banks/Commercial Banks.

4. Being aggrieved, the appellant Society is in appeal before this Tribunal in the present appeal.

5. The ld. AR for the appellant society submits that the issue is decided in favour of the assessee by placing reliance on the several decisions passed by the Co-ordinate Benches of this Tribunal. A copy of order in ITA Nos.726 to 728/PUN/2024 order dated 30.05.2024 is placed on record.

6. On the other hand, ld. Sr. DR placing reliance on the orders of the lower authorities submits that no interference by this Tribunal is called for.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the eligibility of the assessee for exemption u/s 80P(2)(a)(i) of the Act in respect of interest income earned from cooperative banks.

8. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(a)(i) in respect of interest income earned by a cooperative society from the cooperative banks/commercial banks, there is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State

Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann.com 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR 371 took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s 80P(2)(a)(i) of the Act. Similar view has been taken by the Hon'ble Calcutta High Court in the case of PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta) and the Hon'ble Madras High Court in the case of Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras). The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Following the decision of the Coordinate Bench of the Tribunal, we are of the considered opinion that the interest income earned on fixed deposits with cooperative bank/scheduled bank partakes character of the business income,

which is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, we direct the Assessing Officer to allow the exemption u/s.80P(2)(a)(i) and section 80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.

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

Order pronounced on this 05<sup>th</sup> day of August, 2024.

**Sd/-**  
**(MS. ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 05<sup>th</sup> August, 2024.  
*Satish*

**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.