

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “SMC”, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No. 749/M/2024
Assessment Year: 2021-22**

M/s. White Hall Premises Co. Operative Society Ltd. 143 White Hall Premises Chs. Ltd., August Kranti Marg Kemps Corner, Mumbai- 400036. PAN: AAAAW0178Q	Vs.	ITO Ward-19(3)(1) 1 st & 2 nd Floor, Tardeo, Nana Chowk, Grand Road, Mumbai- 400007.
(Appellant)		(Respondent)

Present for :

Assessee by : Shri Bhupendra Shah, A.R.

Revenue by : Shri R. R. Makwana- SR. D.R.

Date of Hearing : 20 . 06 . 2024

Date of Pronouncement : 26 . 07 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the ‘Act’ in short]

vide DIN & Order No. ITBA/APL/S/250/2023-24/1060578710(1) Dated 06/02/2024 for the Assessment Year 2021-22.

2. Following grounds of appeal have been raised by the appellant:-

1. *“In the facts and circumstances of the case and in law, the learned A.O. (CPC) erred in not granting deduction u/s 80P (2)(d) amounting to Rs 13,36,458/- by way of income from other sources in respect of interest earned on fixed deposit with Saraswat co-operative bank, MSC bank, TMDCC bank and Shamrao Vitthal co-operative bank and also overlooking the fact that debatable addition cannot be sustained under 143[1].*
2. *In the facts and circumstances of the case and in law, the learned Commissioner of Income Tax(A) erred in confirming the same by rejecting written submissions and several judgments cited before him and also overlooking the fact that debatable addition cannot be sustained u/s 143[1].*
3. *The A.O.(CPC) has wrongly charged interest u/s. 234A, B & C.*

[B] Relief Praved:

The appellant therefore prays Your Honour,

1. *To allow the deduction of Rs. 13,36,458/- claimed u/s 80P (2) (d).*
2. *To delete the interest u/s 234A, B & C.*

[C] General: -

- *The appellant reserves rights to add alter or delete any portion of this appeal before its conclusion.*
- *This appeal is filed in time and may please be allowed in full.*
- *A Detailed paper book along with case laws will be submitted at the time of hearing.”*

3. The facts of the case, in brief, are that the assessee is a Co-operative Housing Society providing services to only its members. The assessee cooperative society had placed their fixed deposits in a co-operative bank

and earned interest and dividend income amounting to Rs.13,36,458/- which was claimed as a deduction u/s. 80P(2)(d) of the Act on the ground that the Society has satisfied all the conditions provided in that section i.e., the assessee is a co-operative society and has earned interest from another co-operative society (Since co-operative banks are registered as co-operative societies). However, the deduction claimed by the Society u/s 80P (2) (d) of the Act was rejected by the CPC as given in the intimation order under section 143(1) of the Act.

4. Aggrieved by the order, the appellant preferred the appeal before the Ld. CIT (A) who dismissed the appeal of the assessee on the ground by holding as under:-

“Here the appellant has mentioned that when there are decisions covering the case of the appellant by Hon'ble ITAT, it is incumbent on the lower authorities to follow the decision. But here in the decision of specific grounds above, the decision of Hon'ble High Courts, Hon'ble Karnataka High Court and Hon'ble Supreme Court has been referred by the undersigned above. The decision of the Hon'ble Supreme Court in the case of M/s. Totgars Cooperative Society Limited and the latest decision of the Hon'ble Supreme Court in the case of Kerala State Cooperative Agricultural and Rural Development Bank Limited have been mentioned. Considering the above, I am inclined to follow the decision of the High Courts and therefore this addition ground is dismissed.”

5. Aggrieved by the order of the Ld. CIT (A), this appeal has been preferred before us. We have considered the facts of the case and the legal position of this issue and it is found that the coordinate benches of Hon'ble ITAT, Mumbai, have already considered this issue in detail and have come to the conclusion that the income, if any, earned by way of interest from the investments made with any other cooperative bank is eligible for deduction u/s. 80P (2) (d) of the Act. The assessee, during the course of appellate proceedings, also referred to one such decision in the case of “Alsid Co-operative Housing Society Ltd. vs. DCIT/ACIT-CPC [ITA No.1204 & 1205/Mum/2023] for the assessment year 2020-21 & 2021-22 in which the Hon'ble Bench has allowed the claim of deduction made u/s. 80P (2) (d) of the Act on out of the deposits made with cooperative bank. Respectfully following the decision of the coordinate bench of ITAT (Mumbai). We also allow the claim of deduction made by the appellant stated at above.
6. In the result, the appeal is allowed.

Order pronounced in the open court on 26.07.2024.

**Sd/-
AMIT SHUKLA
JUDICIAL MEMBER**

**Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER**

Mumbai, Dated: 26.07.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.