

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

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 2939/Mum/2024
Assessment Year 2020-21

Om Galaxy Apartment CHS Ltd., Plot No. 231, Om Galaxy Co-Op. Hsg. Society Ltd., Sakharam Keer Marg, Matunga West, Mumbai. PAN : AAAJO0045K	vs.	The Income Tax Officer, Ward-22(2)(1), Piramal Chambers, Lal Baug, Mumbai.
(Appellant)		(Respondent)

For Assessee :	Ms. Rucha Vaidya,
For Revenue :	Shri Pravin M. Chavan, Sr.DR

Date of Hearing :	01-08-2024
Date of Pronouncement :	07-08-2024

ORDER

PER B.R. BASKARAN, A.M.

The assessee has filed this appeal challenging the order dated 31-03-2024 passed by Ld Addl/JCIT-1, Ludhiana and it relates to the assessment year 2020-21. 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 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.4,86,512/- earned on deposits kept with co-operative bank.

3. The assessee is a co-operative society and it has earned interest income of Rs.4,86,512/- from deposits kept with co-operative banks. The assessee claimed the same as deduction u/s 80P(2)(d) of the Act. The CPC rejected the said claim while processing return of income and the Ld CIT(A) also confirmed the same. Aggrieved, the assessee has filed this appeal.

4. 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.**"*

5. 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) has held 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.

6. 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.

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

Order pronounced in the open court on 7th August, 2024.

Sd/-
[ANIKESH BANERJEE]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 07-08-2024

TNMM

Copy to

1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "J" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,
ITAT, Mumbai