

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1213/PUN/2024

निर्धारण वर्ष / Assessment Year : 2021-22

Aayakar karmachari Sahakari Patsanstha Maryadit, 1 Rajasva Bhavan, Gadkari Chowk, LIC Post Office, Pune – 422 001 Maharashtra PAN : AADAA1469M	Vs.	Income Tax Officer, Ward-1(1), Nashik
Appellant		Respondent

Assessee by : Shri Pramod Shingte

Revenue by : Shri Rajesh Gawali

Date of hearing : 14.08.2024

Date of pronouncement : 14.08.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Addl./JCIT(A)-1, Lucknow dated 19.03.2024 for the assessment year 2021-22.

2. Brief facts of the case are as under :

The appellant is a Primary Credit Cooperative Society registered under the Maharashtra Cooperative Societies Act, 1960. It is engaged in the business of providing credit facilities to its Members. The Return of Income for the A.Y. 2021-22 was filed on 30.03.2022 declaring total income of Rs.5,60,760/-. Return was processed by the

CPC vide intimation dated 30.11.2022 passed u/s.143(1) determining total income at Rs.11,18,390/-.

3. Being aggrieved by the said intimation, an appeal was filed before the CIT(A)/Addl/JCIT(A) who on perusal of income tax return observed that the appellant reported income from business and profession amounting to Rs.30,89,855/- claiming the deduction u/s.80P(2)(a)(i) of the Act and income from other sources at Rs.11,18,388/-. Additionally, deduction u/s.80P(2)(d) was claimed for Rs.5,57,630/- as Income from other sources. The Addl/JCIT(A) placing reliance on the judgment of Hon'ble Apex Court in the case of Totgar's Cooperative Sale Society Ltd. Vs. ITO (2010 322 ITR 283 (SC) and the judgment of Hon'ble Karnataka High Court in the case of PCIT & Ors Vs. Totagars Cooperative Sale Society confirmed the action of CPC denying the deduction u/s.80P(2)(d) of the Act claimed at Rs.5,57,630/-.

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

5. I heard the rival submissions and perused the relevant material on record. The issue in the present appeal relates to the allowability of deduction u/s.80P(2)(d) in respect of interest income earned by a Cooperative Society formed with the object of accepting deposits from Members and lending money to its Members, which is no more *res integra* in view of catena of decisions passed by this Bench on this very issue.

6. In the present case, I find that admittedly the interest income was earned on deposits made with a Cooperative Bank. On perusal of provisions of section 80P(2)(d), it is clear that the income derived by a cooperative society from its investment held with other cooperative

societies shall be exempt from the total income of a cooperative society. Therefore, what is relevant for claiming of deduction u/s 80P(2)(d) is that interest income should have been derived from the investment made by the assessee cooperative society with any other cooperative society. This issue was considered by the Hon'ble Karnataka High Court in the case of *CIT vs. Totagars Cooperative Sale Society*, 392 ITR 74 (Karn) wherein the Hon'ble High Court after referring to the decision of the Hon'ble Supreme Court in the case of *Totgar's Co-operative Sale Society Ltd.Vs. ITO (2010) 322 ITR 283(SC)* held that the ratio of decision of the Hon'ble Supreme Court is not to be applicable in respect of interest income on investment as same falls under the provisions of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. In the light of this discussion, I am of the considered opinion that the interest income earned by cooperative society on deposits made out of surplus funds with cooperative bank qualifies for deduction under the provisions of section 80P(2)(d) of the Act. Therefore, the grounds of appeal raised by the appellant stand allowed.

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

Order pronounced on this 14th day of August, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14th 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, "SMC" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.