



IN THE INCOME TAX APPELLATE TRIBUNAL  
"G " BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI RAHUL CHAUDHARY, JM

ITA No. 1568/MUM/2024

A.Y.2021-22

Swapanalok Co-operative  
Housing Society Ltd.  
206 TPS II Swapanalok,  
Dixit Road,  
Vile Parle (East),  
Mumbai  
(Appellant)

Vs.

Commissioner of Income  
Tax (Appeals),  
Income Tax Department

(Respondent)

PAN

AAAJS 1969A

Assessee by

Shri Gunjan Kakkad

Revenue by

Shri Dr. Kishor Dhule,

CIT(DR),

Date of hearing

27<sup>th</sup> June, 2024

Date of pronouncement

28<sup>th</sup> August 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. This appeal is filed by the assessee for Assessment Year (A.Y.) 2021-22 against the appellate order passed by the Joint Commissioner of Income Tax (Appeals)-4, Kolkata [the learned



CIT(A)] dated 02.02.2024 wherein the appeal filed by the assessee against the intimation passed u/s. 143(1) of the Income Tax Act, 1961 (the Act) dated 10.11.2022, was dismissed.

2. The assessee is aggrieved with the same and has preferred the following grounds of appeal:

1. "On the facts and circumstances of the case and in law, the Hon'ble Commissioner of Income Tax, Appeal ADDL/JCIT(A)-4 KOLKATA [Hon'ble CIT(A)] erred in confirming Appellants income at Rs. 9,77,180/- as determined under intimation/Order u/s 143(1) of the Act, dated 10-11- 2022 (the said Intimation/Order) as against Appellant's Returned income of Rs. 7,96,240/-

The Appellant's prays that its income be restored to 7,96,240/-

2. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming disallowance of Appellant's claim of Rs. 1,80,936/- u/s 80P(2)(d) of the Act being interest received from Co-operative Banks as disallowed in the said Intimation/Order.

The Appellant's prays that the said disallowance of deduction u/s 80P(2)(d) of the Act be deleted.

3. Without Prejudice to the above, on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming disallowance of Appellant's claim of Rs. 1,80,936/- u/s 80P(2)(d) of the Act being interest received from Co-operative Banks as disallowed in the said Intimation/Order inasmuch as as much as the said interest is not taxable in Appellant's hands on ground of mutuality.



The Appellant's prays that the said interest be held as not taxable in its hands.

4. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming levy of interest u/s 234B and 234C of the Act as levied in the said Intimation/Order.

The Appellant's prays that the said interest levied u/s 234B and 234C of the Act be deleted.

5. The above Grounds of Appeal are without prejudice to each other and the Appellant craves leave to add to/amend any of the said Grounds of Appeal any time before/at the time of hearing of the Appeal."

3. The brief facts of the case shows that only issue involved in the appeal is whether the assessee would be entitled to deduction u/s.80P(2)(d) of the Act or not on interest income of Rs. 1,80,936/- on the interest income received from Cooperative Banks. The learned CIT(A) has held that assessee is not entitled to the same.

4. The brief facts of the case shows that the assessee is a Co-operative Housing Society. Its filed return of income for A.Y. 2021-22 on 25.11.2021 at a total income of Rs. 7,96,240/-. The facts shows that the assessee has received bank interest on fixed deposits of Rs. 92,031/- with SVC Co-operative Bank Ltd. and Rs. 88,905/- on Saraswat Cooperative Bank Ltd. aggregating to Rs. 1,80,936/-. This claim was made by the assessee for the reason that all this Co-operative Banks are also Co-operative Societies and in case of all Co-operative societies , other than the Cooperative Bank, they are entitled to



deduction of investment income with other Cooperative Banks u/s. 80P(2)(d) of the Act.

5. The Central Processing Centre passed an intimation u/s. 143(1) of the Act wherein the above deduction was disallowed and total income of the assessee was assessed at Rs. 9,77,180/-.
6. Aggrieved with that intimation, the assessee filed appeal before the learned CIT(A). The learned CIT(A) dismissed the appeal of the assessee on this ground.
7. We have heard the rival contention and find that assessee is a Co-operative Societies eligible for deduction u/s. 80P of the Act. It has made investment with other two other Cooperative Societies, which are also cooperative banks. On that investment assessee has received interest thereon.
8. According to the provisions of Section 2(19) of the Act Co-operative Societies are defined to be Cooperative Societies under the Co-operative Societies Act or any other law for the time being enforced. Undisputedly, the assessee is not a Co-operative Bank and, therefore, the provisions of Section 80P(4) does not apply to the assessee. According to Maharashtra State Cooperative Act, all Co-operative Banks are necessarily Co-operative Societies carrying on the Banking business. Thus, merely because they are Co-operative Banks, they do not go out of the definition of Co-operative Societies. Several judicial precedents were cited before us, which also subscribed to the above view. In view of this, we find that the assessee is entitled to a deduction of Rs. 1,80,936/- u/s. 80P(2)(d) of the Act. Accordingly the orders of the learned lower authorities are



reversed and Ground No.1 of the appeal of the assessee is allowed.

9. All other two grounds are supportive or consequential. Thus, those grounds are also allowed.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28/08/2024.

Sd/-

Sd/-

(RAHUL CHAUDHARY)  
(JUDICIAL MEMBER)

(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 28 .08.2024

Aks/-

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai