

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1418/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Shrikrushna Gramin Bigarsheti Sahakari Patsanstha Maryadit, Vadgaon Kashimbeg, Ambegaon, Pune 410 503 Maharashtra PAN : AADAS4001K	Vs.	ITO, Ward-10(1), Pune
Appellant		Respondent

Assessee by : Shri Omkar Doshi
Revenue by : Shri Ratnakar Shelake
Date of hearing : 29.08.2024
Date of pronouncement : 29.08.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre, Delhi dated 15.04.2024 for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is Cooperative Society registered under the Maharashtra Cooperative Societies Act, 1960. It is engaged in the business of providing credit facilities to its Members and investing its surplus funds. The appellant society filed the Return of Income for the A.Y. 2018-19 on 29.09.2018 declaring total income of Nil after claiming deduction of Rs.36,50,549/- on account of the interest earned out of deposits made with Cooperative Banks u/s.80P of the Act. Against the said return of income, the

assessment was completed by the AO vide order dated 12.03.2021 passed u/s.143(3) r.w.s.143(3A) & 143(3B) of the Act disallowing the deduction claimed u/s.80P(2)(d).

3. Being aggrieved by the above assessment, an appeal was filed before the NFAC who vide impugned order dismissed the appeal for non-prosecution.

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

5. I heard the rival submissions and perused the material on record. On mere perusal of the finding of the NFAC, it would reveal that the NFAC dismissed the appeal for non-prosecution. The NFAC ought to have decided the issue on merits, even in the *ex parte* order. Furthermore, 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. I proceed to dispose of the appeal as the issue in the appeal does not require investigation of facts, purely legal issue.

6. In the present case, I find that admittedly the appellant society earned interest on deposits made with PDCC bank and other banks. 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 banks qualify for deduction under the provisions of section 80P(2)(d) of the Act. Therefore, the grounds of appeal raised by the appellant society stand allowed.

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

Order pronounced on this 29th day of August, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th 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.