

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "B" Bench, Mumbai.

Before Shri Amit Shukla (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 1267/Mum/2024 (A.Y. 2015-16)
I.T.A. No. 1275/Mum/2024 (A.Y. 2018-19)

ITO-17(2)(1) Room No. 104 Kautilya Bhavan Bandra Kurla Complex Bandra East Mumbai-400 051.	Vs.	The Best Employees Cooperative Credit Society Ltd. 3 rd Floor, Parivahan Bhavan, Shahid Bhagar Singh Marg, Mumbai GPO Mumbai-400 001. PAN : AADAT1884F
(Appellant)		(Respondent)

Assessee by	Shri G.P. Mehta
Department by	Shri Ashok Kumar Ambastha
Date of Hearing	10.06.2024
Date of Pronouncement	05.09.2024

ORDER

Per Omkareshwar Chidara (AM) :-

Both the appeals are filed by the Revenue against the order of the Ld. CIT(A) for A.Ys. 2015-16 & 2018-19. Since grounds of appeal are identical, they were heard together and disposed of by this common order, for the sake of convenience.

2. In the aforesaid Departmental appeals, even though several grounds of appeal were mentioned, crux of appeal is whether the aforesaid cooperative credit society is entitled for deduction u/s. 80P(2)(d) of the Income Tax Act (the Act for short) on the interest received by it. In this case, the learned Commissioner of Income Tax (Appeals) [the Ld. CIT(A) for short] passed an order stating that the appellant society is entitled for 80P(2)(d) deduction on the interest received by following various decisions of Hon'ble ITAT, Mumbai.

3. Aggrieved by the order of the Ld. CIT(A), the Revenue filed appeals before the ITAT, Mumbai relying on the Hon'ble Supreme Court decision of Totgars Cooperative Sale Society.

4. During the proceedings before the Bench, Ld. DR relied on the grounds of appeal and also assessment order where the appellant society was denied benefit of section 80P(2)(d) of the Act. In reply to the arguments of the Revenue, Ld. AR of the appellant society supported the orders of the Ld. CIT(A) and pleaded that the society is entitled for deduction u/s. 80P(2)(d) of the Act on the interest received from the cooperative banks. The Ld. AR of the appellant society has cited several decisions of the Coordinate Bench decisions of Mumbai and also the decision of Hon'ble Madras High Court in the case of Thorapadi Urban Cooperative Credit Society Limited. In view of these judicial pronouncements, Ld. AR of the appellant society argued that the appellant society is eligible for 80P(2)(d) deduction.

5. After hearing both sides, it is decided that the appellant society is entitled for deduction u/s. 80P(2)(d) of the Act. This issue was examined and decided in favour of the appellant in several decisions which are mentioned below :-

- i) M/s. Solitaire CHS Ltd. Vs. PCIT, ITA No. 3155/Mum/2019 dated 29.11.2019.
- ii) Land and Cooperative Housing Society Ltd. Vs. ITO, 46 CCH 52 (MUM)
- iii) M/s. C. Green Cooperative Housing Society Ltd. Vs. ITO, ITA No. 1343/Mum/2017 dated 31.3.2017.
- iv) Marvwanjee Cama Park Cooperative Housing Society Ltd. Vs. ITO (ITA No. 6139/Mum/2014 dated 27.9.2017.
- v) Kaliandas Udyog Bhavan Premises Cooperative Society Ltd. Vs. ITO.

6. The issue as to the allowability of deduction claimed by the appellant u/s. 80P(2)(d) is no longer res-integra as the issue was decided by the

Coordinate Bench of the Tribunal in the case of Palm Court M. Premises Cooperative Society Limited in ITA No. 561/Mum/2021 dated 9.9.2022 by settling the issue in favour of the appellant by distinguishing Judgment rendered by Hon'ble Supreme Court in the case of Totgars Cooperative Sales Society Ltd. Vs. ITO 188 Taxman 288 (SC) and after discussing the decision rendered by Hon'ble Bombay High Court and Hon'ble Gujarat High Court wherein it was clearly held that the interest income earned by the cooperative society on its investments with the cooperative banks would be eligible for deduction u/s. 80P(2)(d) of the Act. Similar decision was rendered by the Jurisdictional Mumbai ITAT in the case of Amore Commercial Premises Cooperative Society Ltd. Vs. CPC dated 17.1.2023. Similarly Hon'ble Gujarat High Court in the case of State Bank of India Vs. THE LD. CIT(A), 389 ITR 578, it was held that 80P(2)(d) specifically exempts interest earned from funds invested by the cooperative societies.

7. Following the above judicial pronouncements, it is hereby held that the appellant society is entitled for deduction u/s. 80P(2)(d) of the Act and the Revenue's appeals are dismissed.

Order pronounced in the open court on 5th September, 2024.

Sd/-
(Amit Shukla)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 05.09.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.

*The Best Employees Cooperative
Credit Society Ltd.*

6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai