

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1280/PUN/2024

निर्धारण वर्ष / Assessment Year : 2018-19

Income Tax Officer, Ward-2, Ahmednagar	Vs.	Sanjivani Sahakari Pat Sanstha Maryadit, Gurudwara Road, Kopargaon, Dist. Ahmednagar – 423601 Maharashtra PAN : AAAAS5052K
Appellant		Respondent

Assessee by : None

Revenue by : Shri Arvind Desai

Date of hearing : 23.09.2024

Date of pronouncement : 24.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue directed against the order of National Faceless Appeal Centre, Delhi dated 15.04.2024 passed u/s.250 of the Income Tax Act, 1961 ('the Act') for the Assessment Year 2018-19.

2. Briefly, the facts of the case are that the respondent-assessee is a Credit Cooperative Society registered under the Maharashtra Cooperative Societies Act, 1960. It is engaged in the business of accepting deposits and providing credit facilities to its Members. The Return of Income for the A.Y. 2018-19 was filed on 09.03.2019

declaring total income of Rs. Nil after claiming deduction u/s.80P at Rs.2,31,65,374/-. The case was selected for Limited Scrutiny for verification of (i) Investments/Advances/Loans, (ii) Unsecured Loans and (iii) Deduction from Total Income under Chapter VI-A. Notice u/s.142(1) along with questionnaire was issued to the respondent-assessee. In compliance, the respondent-assessee filed the requisite information. Against the said return of income, the assessment was completed by the Assessing Officer vide order dated 31.03.2021 passed u/s 143(3) r.w.s.144B of the Act at a total income of Rs.1,77,17,880/-. While doing so, the Assessing Officer had brought to tax the interest income of Rs.2,31,65,374/- earned on FDs with Cooperative Banks/Cooperative Societies holding that the said interest does not qualify for deduction, invoking the provisions of section 80P(4) of the Act.

3. Aggrieved by the above assessment order, an appeal was filed before the CIT(A)/NFAC, who vide impugned order reversed the action of the Assessing Officer, placing reliance on the decisions of Hon'ble Supreme Court in the case of *Mavilayi Service Cooperative Bank Ltd. Vs. CIT (2021) 431 ITR 1* and *PCIT Vs. Annasaheb Patil Mathadi kamgar Sahakari Pathpedi Ltd. (2023) 150 taxmann.com 173*, thereby allowing the deduction u/s.80P(2)(d) of the Act.

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

5. When the matter was called on, none appeared on behalf of the appellant despite service of due notice of hearing. We therefore proceed to dispose of the appeal *ex parte* after hearing the Id. Departmental Representative.

6. We heard the Id. Sr. DR and perused the relevant material on record. We find the solitary issue raised in the extant appeal is no more *res integra* by virtue of catena of decisions passed by the Coordinate Benches of this Tribunal. In the present case, we find that admittedly the interest income was earned from the investments out of surplus funds made with cooperative banks, the cooperative bank is also a specie of cooperative society, therefore, the interest income earned by the cooperative society from the cooperative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. 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.

7. In the light of this discussion, we are of the considered opinion that the interest income earned by cooperative society on deposits made out of surplus funds with cooperative banks/Cooperative societies

qualify for deduction under the provisions of section 80P(2)(d) of the Act.

8. Since the order of the CIT(A) is in consonance with the settled position of law, we do not find any reason to interfere with the impugned order. Hence, the appeal filed by the Revenue stands dismissed.

9. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on this 24th day of September, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th September, 2024

Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “B” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
4. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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