

**IN THE INCOME TAX APPELLATE TRIBUNAL
"J" BENCH MUMBAI**

**BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.4093/Mum/2024
(Assessment Year: 2021-22)**

Ahimsa Tower Co-op Housing Society Ltd, Chincholi Bunder Road, Malad (West), Mumbai -400064.	बनाम/ Vs.	ITO-Ward 41(3)(1), Kautilya Bhavan, BKC, Mumbai-400051.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAAA9430B		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)

Assessee by :	None
Revenue by :	Shri.Asif Karmali, Sr. DR

सुनवाई की तारीख / Date of Hearing	25/09/2024
घोषणा की तारीख /Date of Pronouncement	27/09/2024

आदेश / ORDER

PER PAVAN KUMAR GADALE - JM:

The appeal is filed by the assessee against the order of the Joint Commissioner of Income Tax (Appeals)/J CIT(A) – 3, Delhi passed U/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. On the facts and circumstances of the case and in law, the lower authorities have erred in disallowing deduction claimed u/s. 80P(2)(d) of Income Tax Act 1961, (the whole of Interest earned from Cooperative Bank) against the Interest earned from*

Cooperative Bank by the Cooperative Housing Society Rs. 3,73,747/-

2. On the facts and circumstances of the case and in law, the lower authorities erred in disallowing claim of deduction of interest earned from the co-operative society though the said adjustment is not covered within the purview of sub-clause (i) to (vi) of clause (a) of section 143(1).

3. The appellant craves leave to add, to alter, modify or withdraw any of the above grounds of appeal before or at the time of hearing.

2. The Brief facts of the case are that, the assessee is a Cooperative Housing Society registered under Maharashtra Co-operative Societies Act 1960. The assessee has filed the return of income for the A.Y 2021-2022 on 31.12.2021 disclosing a total income of Rs. 52,880/- after claiming deduction u/sec 80P(2)(d) of the Act of Rs. 3,73,747/ on the interest on fixed deposits with the Cooperative Banks. Subsequently the return of income was processed u/sec 143(1) of the Act. Whereas the AO/CPC has not allowed deduction of claim u/s 80P(2)(d) of the Act as the cooperative bank is an urban commercial bank and does not fall under the purview of cooperative society referred in the Sec. 80P(2)(d) of the Act and therefore the interest income from cooperative banks is taxed under income from other sources and assessed the total income of Rs.4,26,630/-and passed the order u/sec 143(1) of the Act dated 19.10.2022.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the A.O and issued notices for hearing but there was no response from the assessee. Further, the CIT(A) found that there is a delay in filing the appeal and the delay was not properly explained and the CIT(A) has dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal with the Hon'ble Tribunal.

4. At the time of hearing, none appeared on behalf of the assessee. The Ld. DR relied on the order of the CIT(A).

5. We heard the Ld.DR submissions and perused the material on record. The sole matrix of the disputed issue is in respect of denial of deduction u/s 80P(2)(d) of the Act to the Cooperative Society. We find the CIT(A) has passed an ex-parte order and the Assessing Officer could not verify the interest income received from the cooperative banks. Accordingly, to meet the ends of justice, we condone the delay in filing the appeal by the assessee before the CIT(A) considering information referred at page 2 of the CIT(A) order and we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the Assessing Officer to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate

in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the appeal is allowed for statistical purposes.

Order pronounced in the open court on 27.09.2024.

Sd/-

(BR BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 27/09/2024

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

1.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai

		Date
1.	Draft dictated on	26.09.2024
2.	Draft placed before author	27.09.2024
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	
6.	Kept for pronouncement on	
7.	File sent to the Bench Clerk	
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head Clerk	
10.	Date of dispatch of Order.	
11.	Dictation Pad is enclosed	