

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" SMC " BENCH, AHMEDABAD

श्री टी.आर. सेन्थिल कुमार, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA Nos.1228 & 1229/Ahd/2024
निर्धारण वर्ष /Assessment Years: 2018-19 & 2020-21 respectively

Union Bank Co-op. Credit Society Ltd. 1, Dhalaxmi Market Revadi Bazar Kalupur Ahmedabad - 380 001 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The Dy.CIT Circle-1(1)(1) Ahmedabad
स्थायी लेखा सं./PAN:AAAU 0802 F		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Anil Kshatriya, Advocate	
Revenue by :	Smt. Bhavna Gupta Singh, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 24/09/2024
घोषणा की तारीख /Date of Pronouncement: 08/10/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

Both these appeals filed by the assessee, Union Bank Co-Op Credit Society Ltd., pertain to the Assessment Years (AYs) 2018-19 and 2020-21, challenging the orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as "CIT(A)"). Both the orders of the CIT(A) were dated 27/04/2024, passed under sections 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), wherein the CIT(A) upheld the additions made by the Assessing Officer (hereinafter

referred to as “AO”) in the assessment orders framed under section 143(3) read with sections 143(3A) and 143(3B) of the Act for A.Y. 2018-19 and under section 143(3) read with section 144B of the Act for A.Y. 2020-21. Given that the issues involved in both assessment years are identical, these appeals are being decided together by way of a common order for the sake of convenience and brevity.

Facts of the case:

2. The assessee, an Association of Person and a Co-operative Credit Society, filed its return of income which were selected for scrutiny and the AO completed the scrutiny by passing the order under 143(3) of the Act. In these orders, the AO disallowed the deductions claimed by the assessee under sections 80P(2)(a)(i) and 80P(2)(d) of the Act, adding back interest income of Rs.14,62,802 for A.Y. 2018-19 and Rs.10,69,772 for A.Y. 2020-21. The AO’s decision was primarily based on the interpretation that the interest income from deposits with nationalized and co-operative banks does not constitute operational income eligible for deductions under section 80P. Details of the returns filed and completed assessments are tabulated below for the sake of clarity:

Particulars	A.Y. 2018-19	A.Y. 2020-21
Date of Filing of Original ROI	29/09/2018	31/03/2021
Date of Processing u/s 143(1)	28/01/2019	29/06/2021
Section under which Order Passed	143(3) r.w.s. 143(3A) & 143(3B)	143(3) r.w.s. 144B
Date of Assessment Order	30/03/2021	20/09/2022
Returned Income (Original)	Rs. 4,55,640/-	Rs. 3,95,830/-

Date of Filing of Revised Return	Not Applicable	31/03/2021
Revised Income Returned	Not Applicable	Rs. 2,46,000
Assessed Income	Rs. 19,18,438/-	Rs. 13,15,772/-
Total Additions Made	Rs. 14,62,802/-	Rs. 10,69,772/-
Details of Additions Made		
1. Interest on FDs with Union Bank of India	Rs. 12,71,815/-	Rs. 2,33,500/-
2. Interest on Savings Account with Union Bank of India	Rs. 59,160/-	Rs. 31,951/-
3. Interest from ADC Co-op Bank	Rs. 9,76,428/-	Rs. 7,00,306/-
4. Dividend from Other Co-op Society (ADC Bank)	Rs. 1,50,015/-	Rs. 1,50,015/-
5. Members Interest on FD	Rs. 1,07,060/-	Rs. 68,395/-
Allowable Exemption u/s 80P(2)(a)(i)	Interest on Members Loan Rs. 82,29,369/-	Interest on Members Loan Rs. 74,71,157/-

3. The assessee preferred and appeal before the CIT(A) against the order of AO. The CIT(A) upheld the additions made by the Assessing Officer (AO) in both assessment years 2018-19 and 2020-21, disallowing the deductions claimed by the assessee under sections 80P(2)(a)(i) and 80P(2)(d) of the Act. The CIT(A) observed that the primary issue involved in both assessment years was the eligibility of the assessee to claim deductions on interest income earned from fixed deposits (FDs) and savings accounts with nationalized and co-operative banks. The CIT(A) concurred with the AO's view that the interest income from such deposits does not constitute income derived from the business of providing credit facilities to members as per Section 80P(2)(a)(i) of the Act, which allows deduction only for income directly attributable to the operational activities of a co-operative society engaged in banking or providing credit facilities to its members. The CIT(A) held that the income from interest on FDs and savings accounts with banks falls under the

head "Income from Other Sources" as per Section 56 of the Act and does not qualify for deduction under Section 80P(2)(a)(i) of the Act because it is not linked directly to the core business activities of the assessee.

4. Aggrieved by the orders of CIT(A), the assessee is in appeal before us with following grounds of appeal:

In ITA No. 1228/Ahd/2024

- 1. On facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) is bad in law, illegal besides being in violation of principle of natural justice & equity, as passed without considering the material already placed on record, as such it is liable to be quashed and set aside.*
- 2. On facts and circumstances of the case and in law, the La. CIT(A) has grossly erred in sustaining impugned addition of Rs.14,62,802/- so made by the A.O., when there is no justification in doing so. The impugned addition may kindly be directed to be deleted.*

LEAVE CRAVED

The appellant craves leave to add, alter, amend and/or withdraw any of the grounds or ground of appeal either before or at the time of appeal hearing.

The appellant respectfully urges that by allowing ground no.1 so being raised by the appellant, the impugned order may kindly be quashed or set aside, and by allowing ground no.2, the addition of Rs.14,62,802/- may kindly be deleted.

In ITA No. 1229/Ahd/2024

- 1. On facts and circumstances of the case and in law, the order passed by the Ld. CIT(A) is bad in law, illegal besides being in violation of principle of natural justice & equity, as passed without considering the material already placed on record, as such it is liable to be quashed and set aside.*
- 2. On facts and circumstances of the case and in law, the La. CIT(A) has grossly erred in sustaining impugned addition of Rs.10,69,772/- so made*

by the A.O., when there is no justification in doing so. The impugned addition may kindly be directed to be deleted.

LEAVE CRAVED

The appellant craves leave to add, alter, amend and/or withdraw any of the grounds or ground of appeal either before or at the time of appeal hearing.

The appellant respectfully urges that by allowing ground no.1 so being raised by the appellant, the impugned order may kindly be quashed or set aside, and by allowing ground no.2, the addition of Rs.10,69,772/- may kindly be deleted.

On the grounds of appeal:

4.1. Since the grounds are similar, except the quantum, we deal with the same together for the sake of convenience.

5. During the course of hearing before us, the Authorised Representative (AR) of the assessee explained the components of income with help of computation of total income and Income & Expenditure account for the years under consideration. The AR also placed on record the written submission, which we have noted. The assessee argued that the interest income earned from fixed deposits (FDs) and savings accounts with nationalized and co-operative banks should qualify for deduction under Section 80P(2)(a)(i) of the Income Tax Act, 1961. The assessee maintained that these deposits are part of the co-operative society's routine financial management activities and should be considered operational income. The assessee emphasized that it is a credit co-operative society, whose primary business is to provide credit facilities to its members. The society argued that managing surplus funds by investing in FDs or maintaining savings accounts with banks is an integral part of its business. It contended that the interest earned on these deposits was closely

linked to the society's primary operational activities, and hence, attributable to its business of providing credit facilities to members. The assessee sought to distinguish between the operational income from providing loans to members and interest earned from deploying surplus funds, claiming that both form part of the same business activity. However, the AR conceded that the co-ordinate bench in assessee's own case for the A.Y. 2013-14 and A.Y. 2014-15 (ITA No. 838/Ahd/2017 and ITA No.488/Ad/2018) has decided against the assessee relating to interest income earned on fixed deposits with nationalised bank relying on the judgment of Hon'ble jurisdictional High Court in case of State Bank of India Vs. CIT (389 ITR 578).

5.1. The assessee, through written submissions, contended that the interest and dividend income earned from deposits and fixed deposits (FDs) with co-operative banks (such as the ADC Co-operative Bank) should be eligible for deduction under Section 80P(2)(d). The assessee argued that these banks are co-operative entities, and income earned from investments in such co-operative banks should qualify for the deduction. Thus, the assessee's core contentions under Section 80P(2)(d) are based on the argument that:

1. Co-operative banks are part of the co-operative structure and should be treated as co-operative societies for the purpose of the deduction.
2. Interest income earned from investments in co-operative banks is derived from co-operative activities and qualifies for deduction under Section 80P(2)(d).
3. The exclusionary provision under Section 80P(4) does not apply to the assessee, as it is a credit co-operative society and not a co-operative bank.

5.2. These arguments aim to justify the claim for deduction on the interest income earned from deposits made with co-operative banks, which has been

disallowed by the AO and CIT(A) on the grounds that co-operative banks are distinct from co-operative societies for the purposes of Section 80P(2)(d).

6. The Departmental Representative, on the hand relied on the order of lower authorities.

7. We have heard the rival contentions and perused the material available on records. The primary issues before us revolve around the disallowance of deductions claimed by the assessee under Sections 80P(2)(a)(i) and 80P(2)(d) of the Income Tax Act, 1961.

7.1. We conclude, following the judicial precedents, particularly the decision of co-ordinate bench in assessee's own case which relied on judgement of jurisdictional High Court in case of **State Bank of India v. CIT (2016) 389 ITR 578**, that interest income earned from fixed deposits and savings accounts with nationalized banks does not qualify for deduction under Section 80P(2)(a)(i). However, we direct the AO to exclude the amount of net interest income, after allowing expenses related to earning such interest income, from the deduction claimed u/s 80P(2)(a)(i) of the Act.

7.2. So far as deduction u/s 80P(2)(d) of the Act is concerned, it is noted that the assessee has earned interest and dividend from Ahmedabad District Co-op. Bank. The details of the same are given below:

Sr	Particulars	A.Y. 2018-19	A.Y. 2020-21
2.	Disallowance of exemption u/s.80P(2)(d) in respect of interest on ADC bank	Rs. 9,76,428/-	Rs.7,00,306/-

3.	Disallowance of exemption claimed u/s.80P(2)(d) in respect of dividend from ADC Bank.	Rs.1,50,015/-	Rs.1,50,015/-
	Total	Rs. 9,91,443/-	Rs. 8,50,321/-

7.3. We find that both interest and dividend income earned by the assessee from cooperative banks and other cooperative societies qualify for deduction under Section 80P(2)(d) of the Act. This deduction is granted to promote cooperative financial activity, and there is no legal basis to exclude cooperative banks from this benefit. Allowing the deduction is consistent with the legislative intent to foster the growth and sustainability of cooperative societies by providing tax incentives on income earned from mutual investments. The income from cooperative banks, whether as interest or dividends, remains within the cooperative framework, justifying the tax relief. Jurisdictional precedents from the Gujarat High Court and Co-ordinate bench consistently support the view that income earned from cooperative banks should be deductible under Section 80P(2)(d). In case of **Katlary Kariyana Merchant Sahkari Sarafi Mandali Ltd. [2022] (140 taxmann.com 602)**, the Hon'ble Gujarat High Court initially ruled against the assessee, denying the deduction under Section 80P(2)(d) of the Act for interest earned from deposits with co-operative banks. However, this decision was later amended (by MA dated 26-04-2024), allowing the deduction on the grounds that such interest income qualifies under Section 80P(2)(d) of the Act, when derived from investments in other co-operative societies or co-operative banks. Thus, the deduction u/s 80P(2)(d) of the Act as specified above is allowed.

7.4. Now we deal with deduction Section 80P(2)(a)(i) of the Act, which provides a deduction to co-operative societies engaged in providing credit facilities to their members. The section allows a deduction of the whole of the profits and gains attributable to such activities. It is undisputed fact that the assessee is eligible to claim deduction under this section, however it is observed that the AO, while arriving at the amount of addition has not properly worked out the section-wise amounts, which is creating confusion. We therefore direct AO to re-compute the income after allowing deductions u/s 80P(2)(d) and 80P(2)(a)(i) of the Act specifying the exact amounts.

7.5. In view of the above discussions and findings, we hereby partly allow the appeals filed by the assessee, for the assessment years 2018-19 and 2020-21. The appeals challenging the disallowance of deductions under Section 80P(2)(a)(i) and 80P(2)(d) have been considered as follows:

With respect to Section 80P(2)(a)(i) of the Act:

8. Following the decision of the jurisdictional Gujarat High Court in **State Bank of India v. CIT**, and the earlier ruling in the assessee's own case, the interest income earned from fixed deposits and savings accounts with nationalized banks does not qualify for deduction under Section 80P(2)(a)(i). However, the AO is directed to allow expenses incurred in earning this interest income and re-compute the net interest income to be disallowed accordingly.

With respect to Section 80P(2)(d) of the Act:

8.1. The interest and dividend income earned from co-operative banks, such as Ahmedabad District Co-operative Bank, qualifies for deduction under Section 80P(2)(d) of the Act. The assessee is entitled to claim this deduction, as it falls within the cooperative framework, and the legislative intent supports tax incentives on income earned from investments with co-operative societies and co-operative banks. The disallowances made by the AO and sustained by the CIT(A) under Section 80P(2)(d) of the Act are, therefore, reversed.

8.2. The AO is directed to re-compute the total taxable income after making appropriate adjustments based on these findings.

9. In the result, both the appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in the Open Court on 8th October, 2024 at Ahmedabad.

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 08/10/2024

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A) -
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
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