

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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAJ KUMAR CHAUHAN, JM

ITA No. 1062/MUM/2024
ITA No. 1063/MUM/2024

A.Y.2018-19
A.Y.2018-19

Nava Sandesh Sahakari
Patsanstha Maryadit,
BDD Chawal No.13/2,3,4,
N.M. Joshi Marg, Lower
Parel,
Mumbai

Vs.

Income Tax Officer,
Ward 22(2)(7),
Mumbai

(Appellant)

(Respondent)

PAN

AACAN 2404Q

Assessee by

Shri Ravindra Naik

Revenue by

Shri Ashok Kumar Ambastha,
SR.DR,

Date of hearing

06th August, 2024

Date of pronouncement

08th October , 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. These two appeals filed by Navsandesh Sahkari Pat Sanstha Maryadit , Mumbai [the Assessee/ Appellant] for assessment

year 2017 - 18 and 2018 - 19 involving similar issue and therefore disposed of by this common order. Only Grievance is for claiming deduction u/s 80 P (2) (d) on interest received from cooperative banks .

2. ITA number 1063/M/2024 is filed by the assessee for assessment year 2017 - 18 against the appellate order passed by the National faceless appeal Centre, Delhi (the learned CIT - A) dated 31/1/2024 wherein the appeal filed by the assessee against the assessment order passed under section 143 (3) of The Income Tax Act [the Act] passed by The Income Tax Officer Ward 22 (2) (7), Mumbai [The Id. AO] dated 14/12/2019 was partly allowed.
3. Still the grievance of the assessee is that the learned CIT - A has not allowed deduction under section 80 P (2) (d) with respect to the interest income earned.
4. Brief facts of the case shows that the assessee is a cooperative credit society accepting deposits and lending money to the members of the society. It is considered as a resource society. It does not hold any license from the reserve bank of India for carrying on the banking business. It filed its return of income at a total income of ₹ 6,227,736/- and claimed the entire income as deduction under section 80 (2) (a) (i) of the act. The case was selected for scrutiny and the claim of the assessee of deduction under section 80 P was examined. The learned assessing officer held that assessee is a cooperative bank and therefore deduction under section 80 P is not allowable in view of subsection 4 of the section. Further the assessee has earned interest from cooperative banks and other banks which are also not eligible for deduction. Accordingly, the total deduction claimed by the assessee under section 80 P was denied and assessment order was passed on 14/12/2019 under section 143

(3) of the act determining total income of the assessee at ₹ 6,227,736/-.

5. Assessee preferred an appeal before the learned CIT – A wherein it was held that assessee is not a cooperative bank and therefore eligible to claim deduction under section 80 P (2) (a) (i) of the act. However the learned CIT – A directed the learned assessing officer that if there is any income which is different than the business income of the assessee, same shall be chargeable to tax under the head income from other sources. With respect to the deduction under section 80 P (2) (d) of the act the AO was directed to give the benefit of such interest if the interest is received from cooperative societies. However, if the interest is received from schedule banks that has to be excluded from the deduction under that subsection. Accordingly appeal of the assessee was partly allowed.
6. The assessee is aggrieved with that order and is in appeal before us.
7. We have heard the rival contentions and perused the orders of the learned lower authorities. Undisputedly the fact shows that assessee is a cooperative credit society wherein it is eligible for deduction under section 80 P (2) (a) (i) of its income arising from the business of providing credit facilities to its member, then whole of the amount of the profits and gains of such business are deductible under section 80 P (2) (a) (i) of the act. Further under section 80 P (2) (d) any income earned by a cooperative society by way of interest or dividend by the cooperative society from its investment with any other cooperative society, the whole of such income is required to be granted as deduction.
8. Undisputed fact shows that assessee is earning business income from business of providing credit facilities to its members.

Therefore, whole of the business income is deductible u/s 80P (2) (a) (i) of the Act .

9. Further with respect to the interest income earned by the cooperative society from another cooperative banks which are necessarily cooperative societies in terms of the provisions of section 2 (19) of the act. Therefore, interest earned by the assessee on its deposits with other cooperative banks, the assessee is eligible for deduction under section 80 P (2) (d) of the Act.
10. Assessee is also eligible for deduction to the extent of ₹ 50,000 in terms of provisions of section 80 P (2) (C) (ii) of the act.
11. On reading the order of the learned CIT – A it is apparent that so far as the income from profits and gains from the specified activity, deduction is granted under section 80 P (2) (a) (i) of the act. With respect to the deduction under section 80 P (2) (d) only the deduction with respect to the interest received by the assessee from another cooperative bank which are cooperative society are granted. The learned CIT – A has directed the learned assessing officer to examine the above fact and decide the issue. On careful consideration we find that all income of the assessee other than interest received from non-cooperative societies i.e., schedule banks or other banks which are not cooperative banks, is eligible for deduction under section 80 P (2) (a) (i) or (d) of the act.
12. Accordingly, both the grounds of appeal raised by the assessee are allowed.
13. The appeal for assessment year also involves similar facts wherein the returned income of the assessee at rupees Nil was assessed at ₹ 5,926,620/- by denying deduction under section 80 P of the act by assessment order dated 19/8/2021. When the matter reached before the learned CIT – A he held that assessee is eligible for deduction under the section but has directed the

learned assessing officer to verify if the income is received from non-members, it should be chargeable to tax under the head income from other sources. If that happens, the assessee loses deduction under section 80 P (2) (a) (i) to that extent as under that section only the business income is eligible for deduction. With respect to the deduction under section 80 P (2) (d) of the act, he directed that the assessee should be granted deduction of interest income on from cooperative banks but not from the scheduled banks.

14. Both these issues have been decided by us in appeal of the assessee for assessment year 2017 – 18. And therefore, for the similar reasons the appeal of the assessee is allowed as indicated for assessment year 2017 – 18.
15. In the result both the appeals of the assessee are allowed.

Order pronounced in the open court on 08/10/2024.

Sd/-

(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated:08.10.2024

Aks/-

Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai