

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1767/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Sharadchandrika Nagari Sahakari Patsanstha Maryadit, Ambedkar Chowk, Papaji Market, Chopda, Dist. Jalgaon-425107 Maharashtra PAN : AABAS5992B	Vs.	ITO, Ward-1(4), Jalgaon
Appellant		Respondent

Assessee by : Shri Shubham Rathi
Revenue by : Shri B.S. Rajpurohit

Date of hearing : 10.10.2024
Date of pronouncement : 10.10.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant society directed against the order of Addl/JCIT(A), Surat, dated 25.06.2024 for the assessment year 2017-18.

2. Brief facts of the case are that the appellant is Cooperative Society governed by the provisions of Maharashtra Cooperative Societies Act, 1960. It is engaged in the business of collecting deposits and lending money to its members. The Return of Income for the assessment year 2017-18 was filed on 29.10.2017 disclosing total income at Nil after claiming deduction of Rs.54,88,523/- u/s.80P(2)(a)(i) of the Income Tax Act, 1961 ('hereinafter also called 'the Act'). The case was selected for limited scrutiny under CASS.

Statutory notice u/s.143(2)/142(1) were issued to the appellant calling upon the appellant to file the requisite details. In response, the appellant filed the written submissions along with copy of audit report in Form No.3CA/3CD and bank statements. On verification of the details furnished by the appellant, the Assessing Officer noticed that the appellant received interest amount to the tune of Rs.13,73,114/- on deposits made with Nationalised banks, the details of which are given on page 2 of the assessment order. The AO required the appellant to furnish the explanation as to why the interest received out of the fixed deposits with Nationalised Banks should not be added as it does not qualify for deduction u/s.80P(2)(a)(i). The appellant filed its reply. After considering the submissions made by the appellant society, the assessment was completed by the Assessing Officer vide order dated 03.12.2019 passed u/s.143(3) of the Act assessing total income at Rs.13,73,114/-. While doing so, the Assessing Officer had brought to tax the interest income of Rs.13,73,114/- earned on FDs with Nationalised Banks by holding that the said interest does not qualify for deduction u/s. 80P(2)(a)(i) of the Act.

3. Being aggrieved, an appeal was filed before the Addl./JCIT(A), who vide impugned order confirmed the action of the Assessing Officer.

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

5. The ld. AR submitted that the issue under consideration is covered one decided in favour of the assessee(s) in view of catena of decisions passed by the Co-ordinate Benches of this Tribunal.

6. On the other hand, ld. Sr. DR placing reliance on the orders of the lower authorities submits that no interference by this Tribunal is called for.

7. I heard the rival submissions and perused the material on record. The solitary issue in the present appeal relates to the eligibility of the assessee for exemption u/s. 80P(2)(a)(i) of the Act in respect of interest income earned from Nationalised Banks.

8. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(a)(i) in respect of interest income earned by a cooperative society from the Nationalised banks, there is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann.com 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural

Bank Ltd. v CIT [(2017) 396 ITR 371 took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s 80P(2)(a)(i) of the Act. Similar view has been taken by the Hon'ble Calcutta High Court in the case of PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta) and the Hon'ble Madras High Court in the case of Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras). The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11.12.2018) taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Following the decision of the Coordinate Bench of the Tribunal, I am of the considered opinion that the interest income earned on Fixed Deposits with Nationalised Banks partakes character of the business income, which is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, I direct the Assessing Officer to allow the exemption u/s.80P(2)(a)(i) of the Act. Thus, the grounds of appeal filed by the appellants stand allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 10th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 10th October, 2024.

Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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