

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1770/PUN/2024

निर्धारण वर्ष / Assessment Year : 2015-16

Shivkrupa Gramin Bigar Sheti, Sahakari Patsanstha Maryadit, Khandgaon, Khandgaon, Sangamner – 422 605 Maharashtra PAN : AADAS3360H	Vs.	ITO, Ward-2, Ahmednagar
Appellant		Respondent

Assessee by : Shri C.V. Deshpande
Revenue by : Shri B.S.Rajpurohit

Date of hearing : 14.10.2024
Date of pronouncement : 14.10.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 18.06.2024 for the assessment year 2015-16.

2. At the outset, I find the appeal is time barred by limitation by 11 days before the Tribunal. The counsel representing the appellant society filed a petition praying for condonation of delay on the ground that he had suffered with Chikungunya infection in the month of July, 2024 and was bed ridden. He recovered from illness only on 20.08.2024. After recovering from illness, immediately he took steps for filing the appeal which resulted in delay. In support, he filed the certificate issued by Dr. Nayana Sonawane. Therefore, the delay in

filing the appeal was unintentional but due to medical condition stated above. It is thus prayed to condone the delay of 11 days.

3. Having gone through the averments made in the condonation petition filed by the counsel of the appellant society and in the absence of any contrary material to disbelieve the contention putforth by the counsel, I am of the considered opinion that it is a fit case to condone the delay. I therefore condone the delay of 11 days in filing the appeal and proceed for adjudication of the appeal on merits.

4. 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 accepting deposits from its members and providing credit facilities to its members. The Return of Income for the assessment year 2015-16 was not filed by the appellant society under the regular provisions of section 139(1) of the Act. Based on the information received by the JAO in accordance with Risk Management Strategy that the appellant made cash deposit amounting to Rs.91,47,000/- in the current bank account and time deposit of Rs.1,08,00,000/-, a notice u/s.148 was issued to the appellant society on 01.04.2022. In response to said notice u/s.148, the appellant society filed the computation of income and return of income on 30.04.2022 declaring total income of Nil, claiming deduction u/s.80P of Rs.4,23,053/- on account of dividend/interest income earned from other cooperative banks/non-scheduled banks. Notices u/s.142(1) were issued to the appellant society calling upon it to furnish the details of investments along with details of interest earned from each entity and explain in detail along with supporting evidence as to how a sum of Rs.4,23,053/- is eligible for deduction u/s.80P. The appellant society filed its submissions. Against the said return of income, the assessment was completed by the Assessing Officer vide order dated 31.10.2023

passed u/s. 147 r.w.s.144B of the Act assessing total income at Rs.4,23,053/-. While doing so, the Assessing Officer had brought to tax the interest income of Rs.4,23,053/- earned on FDs with other Cooperative banks/non-scheduled bank holding that the said interest does not qualify for deduction u/s 80P(2)(d) of the Act.

5. Being aggrieved, an appeal was filed before the CIT(A)/NFAC, who vide impugned order confirmed the action of the Assessing Officer.

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

7. I heard the rival submissions and perused the material on record. The solitary issue in the present appeal relates to the allowability of deduction u/s.80P(2)(d) in respect of interest income earned by a Cooperative Society formed with the object of accepting deposits from Members and lending money to its Members, which is no more *res integra* in view of catena of decisions passed by this Bench on this very issue.

8. In the present case, I find that admittedly the appellant society earned interest on deposits made with Sahakar Maharshi Bhausahab Thorat, Amrutvahini Bank Ltd., Ahmednagar District Central Co.op Bank Ltd. and IDBI Bank. 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 banks/non-scheduled banks 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. In the light of this discussion, I am of the considered opinion that the interest income earned by cooperative society on deposits made out of surplus funds with cooperative banks/non-scheduled bank qualify for deduction under the provisions of section 80P(2)(d) of the Act. Therefore, the grounds of appeal raised by the appellant society stand allowed.

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

Order pronounced on this 14th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14th 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.