

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

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1869/PUN/2024

निर्धारण वर्ष / Assessment Year : 2014-15

Jawaharlal Nehru Port Trust Employees Coop. Credit Society Limited, Shop No.61, Ist Floor, Shopping Centre, Uran, JNPT Township - 400707 Maharashtra PAN : AAAAJ2577N	Vs.	ITO, Ward-3, Panvel
Appellant		Respondent

Assessee by	:	Shri Ajinkya M. Vaishampayan
Revenue by	:	Shri B.S.Rajpurohit
Date of hearing	:	22.10.2024
Date of pronouncement	:	24.10.2024

आदेश / ORDER

PER MANISH BORAD, AM:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2014-15 is directed against the order passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by Id. Commissioner of Income-tax (Appeals), NFAC, Delhi [in short Id."CIT(A)"] dated 27.03.2023 arising out of the Assessment order passed u/s.147 r.w.s.144B of the Act dated 03.03.2022.

2. The Registry has informed that there is a delay of 450 days in filing of the appeal before this Tribunal. Ld. Counsel for the assessee has referred to the Affidavit given by Secretary of the assessee Cooperative Society stating that there was a reasonable cause which prevented the assessee to file the appeal in time.

3. I have perused the affidavit and observe that the assessee society which runs through its office bearers, keeps on changing from time to time. The consultant who was appointed to look after the taxation work did not check and track the status of the appeal. The concerned staff of the assessee also could not notice receipt of any mail regarding such an order passed by ld. CIT(A). On the other hand, ld. Departmental Representative opposed to condonation of delay.

4. I, however, on considering the reasons mentioned in the affidavit, find force in the contention of Ld. Counsel for the assessee stating the reasons mentioned above which prevented the assessee society to file the appeal within the due time. I, in the larger interest of justice, and on considering that the assessee society would not have gained anything from delaying in filing the appeal before this

Tribunal, condone the delay and admit the appeal for adjudication on merits.

5. Grounds of appeal raised by the assessee read as under :

"1. The Assessee Society requests to condone the delay in filing the appeal as per facts undertaken in the Affidavit enclosed.

2. The Learned CIT(A) NFAC erred in confirming the disallowance of deduction Rs.8,64,028/- u/s.80P of the Income Tax Act, 1961, made by the Learned AO.

3. The Learned CIT(A) NFAC erred in not allowing deduction of Rs.8,64,028/- u/s.80P(2)(a)(i) or 80P(2)(d), against the interest income earned from Cooperative Bank Limited, which are basically Cooperative societies as per various judicial pronouncements and binding nature of decisions rendered by the Jurisdiction Tribunal.

4. The Learned Assessing Officer erred in not allowing proportionate deduction u/s.57 against the Income assessed as Income from Other Sources u/s.56 of the Act."

6. From perusal of the above grounds, I notice that the sole grievance of the assessee is that the ld. CIT(A) erred in confirming the disallowance of deduction at Rs.8,64,028/- claimed by the assessee u/s.80P of the Act.

7. Facts in brief are that the assessee is a Cooperative Society and declared Nil income in the return furnished on 26.09.2014. The total claim of deduction u/s.80P at Rs.86,85,797/- included the deduction towards Rs.8,64,028/- for the interest received from investments made in Cooperative Banks. Ld. Assessing Officer after referring to various decisions came to a conclusion that the interest earned from

deposits with Cooperative Banks is not eligible for deduction u/s.80P of the Act.

8. Aggrieved assessee preferred appeal before the Id. CIT(A) but failed to succeed.

9. Now the assessee is in appeal before this Tribunal.

10. Ld. Counsel for the assessee submitted that this Tribunal has consistently held that interest earned from deposits held with Cooperative Banks are also eligible for deduction u/s.80P of the Act.

11. On the other hand, Id. Departmental Representative vehemently argued supporting the order of the lower authorities but failed to controvert this contention that this issue raised in this appeal has been decided by this Tribunal in other cases holding that interest earned on deposits made with Cooperative Banks is eligible for deduction u/s.80P of the Act.

12. I have heard the rival contentions, perused the record placed before me and carefully gone through the decisions referred and relied on by both sides. The assessee has earned interest of Rs.8,64,028/- from Fixed deposits/Investments made with Cooperative Banks. From the perusal of Audited Balance sheet, I

notice that under the head "Investment", deposits have been made on account of Reserve Fund, RDCC RF Short Term FDR, Development Fund, Dividend Equalisation Fund, Election Fund, Loan Security Fund etc., and these funds have been deposited in the form of FDR with Cooperative Banks. All these funds have been created as per the guidelines of the Societies Act which governs the assessee society. It is not in dispute that the alleged interest income has been earned from the deposits made with a Cooperative Bank, namely Abhyudaya Cooperative Bank Limited.

13. Section 80P(2)(d) of the Act provides that the sum received in respect of any income by way of interest or dividend derived by Cooperative Society from its investment with any other Cooperative Society, the whole of such income is eligible for deduction u/s.80P of the Act. I observe that section 80P(2)(d) of the Act refers to the interest from Cooperative Society but it has been consistently held by this Tribunal (Pune Benches) that Cooperative banks are basically Cooperative Societies except that they get license for doing the banking business. I find that this Tribunal in case of *Kolhapur District Central Co-op. Bank Kanista Sevakanchi Sahakar Pat Sanstha Ltd., Vs. ITO in ITA No.1365/PUN/2023, dated 01.01.2024* dealing with similar issue after placing reliance on another decision of this

Tribunal in the case of *The Ugar Sugar Works Kamgar & Dr. Shirgaokar Shaikshanik Trust Nokar Co-op Credit Society vs. ITO in ITA No.84/PAN/2018, dated 27.05.2022* has held that the interest earned from deposits with Cooperative Banks are also eligible for deduction u/s.80P(2)(d) of the Act. I therefore respectfully following the above referred decisions and taking consistent view along with considering the facts of the case, where the assessee made investment with the Cooperative Banks in regard to the funds which it was required to maintain as per the guidelines provided in the Societies Act applicable to the assessee society and hold that the assessee is eligible for deduction u/s.80P(2)(d) of the Act for the interest income earned from Cooperative Bank at Rs.8,64,028/-. Findings of the Id. CIT(A) is set-aside and the alleged disallowance is deleted. Effective grounds of appeal raised by the assessee are allowed.

14. In the result, appeal of the assessee is allowed.

Order pronounced on this 24th day of October, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th 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.