

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICAL MEMBER &  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं. /I.T.A. Nos. 1657 to 1659/Ahd/2024  
(निर्धारण वर्ष / Assessment Years : 2013-14, 2014-15 & 2017-18)

<b>The Kamran Vikas Co- op. Credit Society Ltd.</b> Talav Vibhag, Ilol, Sabarkantha, Gujarat, 383220	<b>बनाम/ Vs.</b>	<b>ITO</b> Ward-1, Himmatnagar
<b>स्थायी लेखा सं. / जीआइआर सं. / PAN/GIR No. : AAAAT5890Q</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

अपीलार्थी ओर से / <b>Appellant by :</b>	Shri Rushin Patel, A.R.
प्रत्यर्थी की ओर से/ <b>Respondent by :</b>	Shri Sudhakar Verma, Sr. DR

<b>Date of Hearing</b>	07/11/2024
<b>Date of Pronouncement</b>	12/11/2024

**ORDER**

**PER SHRI NARENDRA PRASAD SINHA, AM:**

These three appeals are filed by the assessee against the orders of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’), all dated 29.08.2024 for the Assessment Years (A.Y.) 2013-14, 2014-15 and 2017-18. As the issue involved in all three appeals are identical, they were heard together and are being disposed of vide this common order.

2. We will take ITA No.1657/Ahd/2024 for A.Y. 2013-14 as the lead case. The grounds taken by the assessee in this appeal are as under:

*(1) Notice issued u/s 148 and the consequential reassessment order passed u/s 147 r.w.s 143(3) are bad in law.*

*(2) The Learned Commissioner of Income Tax (Appeals) has erred in law and on facts of the case in sustaining the disallowance of deduction u/s 80P(2)(d) of the Income Tax Act, 1961.*

*(3) The appellant craves leave to add, amend, altar or delete the grounds of appeal at the time of hearing, if need arise.*

3. The brief fact of the case is that the assessee is a cooperative credit society engaged in providing credit facility to its members. The original assessment for A.Y. 2013-14 was completed u/s 143(3) of the Act on 16.12.2015 at total income of Rs.1,590/-. Subsequently the AO noticed that the assessee had derived FD interest of Rs.34,54,048/- from The Sabarkantha District Cooperative Bank Ltd. in respect of which deduction u/s 80P of the Income Tax Act, 1961 (hereinafter referred as 'the Act') was claimed. The AO was of the opinion that this interest income earned from the cooperative bank was not attributable to the activities of the society and was also not derived from a cooperative society. Therefore, the deduction u/s 80P of the Act was wrongly claimed in respect of this interest income. The AO, therefore, initiated proceeding u/s 147 of the Act by issue of notice u/s 148 dated 19.03.2019. The re-assessment was

completed u/s 143(3) r.w.s 147 of the Act on 29.06.2019 and the deduction of Rs.24,48,040/- claimed u/s 80P in respect of interest income from The Sabarkantha District Cooperative Bank Ltd. was disallowed by the AO, which was upheld by the Ld. CIT(A) in the first appeal.

4. Shri Rushin Patel, the Ld. AR of the assessee explained that the interest earned by the assessee was from The Sabarkantha District Co-operative Bank Ltd., which was first registered as a cooperative society and, thereafter, availed permission for carrying on banking activity. Therefore, the basic nature of The Sabarkantha District Co-operative Bank Ltd was a cooperative society which was engaged in the business of banking. The Ld. AR submitted that the interest income received from The Sabarkantha District Co-operative Bank Ltd was essentially in the nature of interest derived from investment with other cooperative society and was, therefore, eligible for deduction u/s. 80P(2)(d) of the Act. He submitted that the AO had wrongly disallowed the claim under the provision of section 80P(2)(a)(i) the Act without considering the fact that the case of the assessee was covered under the provision of section 80P(2)(d) of the Act. The Ld. AR further submitted that identical issue was involved in the case of the *The Ladol Vivth Karyakari Sahkari Mandli Ltd. in ITA Nos. 525 to 527/Ahd/2024 dated 01/10/2024* wherein the Ld. ITAT had decided this issue in favor of the assessee.

5. Per contra, Shri Sudhakar Verma, Ld. Sr. DR submitted that the The Sabarkantha District Co-operative Bank Ltd., which was commercially run, cannot be considered as a cooperative society. Therefore, the AO had rightly disallowed the claim for deduction made u/s. 80P of the Act in respect of interest on FDR with The Sabarkantha District Co-operative Bank Ltd. The Ld. Sr. DR strongly supported the orders of the AO and the Ld. CIT(A).

6. We have carefully considered the rival submissions. The deduction u/s. 80P(2)(d) of the Act is available in respect of interest or dividend derived by a cooperative society from its investment with any other cooperative society. The AO had disallowed the interest received by the assessee on FDRs with The Sabarkantha District Co-operative Bank Ltd. for the reason that a cooperative bank was not a cooperative society. This presumption itself is flawed. The cooperative banks are first registered as a cooperative society and, thereafter, they are engaged in carrying on business of banking after obtaining necessary approval from the competent authorities. The cooperative banks are also registered under the respective State Cooperative Societies Act or the Multi-State Cooperative Societies Act, though they function specifically as financial institutions. In addition to their registration under cooperative laws, cooperative banks are regulated by the **Reserve Bank of India (RBI)** under the **Banking Regulation Act, 1949**, which governs their banking operations. Thus, the cooperative banks are registered as cooperative societies but are subject to additional regulations under the

**Banking Regulation Act**, while non-banking cooperative societies are regulated only by the cooperative laws. Thus, the cooperative banks are essentially cooperative societies.

7. The Ld. CIT(A) has upheld the disallowance made by the AO for the reason that the assessee had earned interest income from the deposits made out of the surplus funds in the cooperative bank, which was not attributable to the business operation of the assessee. The Hon'ble *Gujarat High Court* in the case of *State Bank of India vs. CIT (72 taxmann.com 64)* had held that investing the surplus funds with State Bank of India was no part of business of providing credit to its members and that the character of the interest derived on FDRs with Banks was different from the income attributable to the business of the society of providing credit facilities to its members. Therefore, the interest derived by the assessee on FDR with the Co-operative Bank couldn't have been allowed as deduction u/s. 80P(2)(a)(i) of the Act. However, the decision of the Ld. CIT(A) that no deduction was available even u/s 80P(2)(d) of the Act is not found correct.

8. An identical issue was involved in the case of *The Ladol Vivth Karyakari Sahkari Mandli Ltd.(supra)* wherein it was held by the Co-ordinate Bench of this Tribunal that the interest received from cooperative bank was eligible for deduction u/s

80P(2)(d) of the Act. The relevant portion of the said decision is reproduced below:

*12. The moot question to be decided here is whether the investment made by the assessee, which is a cooperative society, with a cooperative bank, shall be considered as investment with other cooperative society. This issue was examined by the Hon'ble Gujarat High Court in the case of Katlary Kariyana Merchant Sahkari Sarafi Mandali Ltd. (supra). Though this decision was in the context of reopening u/s 147 of the Act, the Hon'ble Court had also examined the provision of section 80P of the Act. The finding of Hon'ble High Court in para-19 of the order dated 04/01/2022 was as under:*

*"... However, in the given case, from plane reading of the reasons recorded for reopening the assessment. we find that the Assessing Officer has rightly formed opinion that the interest derived from the surplus funds invested by the assessee in the nature of FDRs other than the Cooperative Societies i.e. other Cooperative Banks and Nationalized Bank, will certainly not fall in the category to be entitled to claim the deductions under section 80P(2)(i) and section 80P(2)(d)."*

*13. Thus, the Hon'ble Court had held that the interest derived from surplus funds invested as FDRs in other than cooperative societies i.e. **other cooperative banks** and nationalized banks was not eligible for deduction u/s. 80P(2)(d) of the Act. However, vide subsequent order dated 26.04.2024, the above observation as given in Para 19 of the order has been modified and the word 'cooperative' has been omitted. Thus, as per the amended order, the interest derived on FDRs with other banks and nationalized banks only will not be entitled for deduction u/s. 80P(2)(d) of the Act. The oral order dated 26.04.2024 of the Hon'ble Court is reproduced below:*

*"1. This note for speaking to minutes is filed by learned advocate Mr. S.N. Divatia appearing for the original petitioners inviting our attention to the error crept in the paragraph no.19 of the order dated 04.01.2022 passed by the Coordinate Bench in the captioned petition. It is submitted*

*that by typographical error the word 'Other Cooperative Banks' has been incorporated in paragraph no.19 by mistake, which is required to be corrected.*

2. *Having heard learned advocate Mr. S.N. Divatia for the petitioner and having perused the order and a note placed on record, in para no.19, words "**other Cooperative Banks**" after the words "other than the Cooperative Societies i.e." is modified and be read as "**other Banks**".*

3. *The speaking to minutes is accordingly disposed of."*

14. *Thus, it is clear from the amended order of the Hon'ble jurisdictional High Court in the case of Katlary Kariyana Merchant Sahkari Sarafi Mandali Ltd. (supra), that **the interest derived on FDRs with other cooperative banks will now be eligible for deduction u/s. 80P(2)(d) of the Act.** In view of the amended order of the Jurisdictional High Court and also the fact that the cooperative banks are registered as cooperative societies, the disallowance of interest derived by the assessee from The Mehsana District Central Co-operative Bank Ltd. cannot be sustained. Therefore, the disallowance of Rs.29,01,898/- as made by the AO u/s. 80P(2)(d) of the Act is deleted. **The ground taken by the assessee is allowed.***

9. Following the decision taken by this Tribunal in the case of *The Ladol Vivth Karyakari Sahkari Mandli Ltd.(supra)* the disallowance of Rs.24,48,040/- made u/s 80P of the Act in respect of interest income derived from The Sabarkantha District Co-operative Bank Ltd. is deleted. The ground number-2 taken by the assessee is allowed

10. Since the ground taken by the assessee on the merits of the case has been allowed, the other ground in respect of reopening

of the case has become academic in nature. Therefore, the same is not adjudicated.

11. In the result the appeal of the assessee is allowed.

12. The grounds taken in ITA Nos. 1658 & 1659/Ahd/2024 are identical to the grounds raised in ITA No.1657/Ahd/2024 except the quantum of disallowance and that no ground on reopening is involved in the A.Y.2017-18. The Ground regarding disallowance of interest income from The Sabarkantha District Co-operative Bank Ltd. under section 80P(2)(d) of the Act, is allowed in both these appeals following the decision on this issue in ITA No.1657/Ahd/2024. Accordingly, the appeals in ITA Nos. 1658 & 1659/Ahd/2024 are also allowed.

13. In the result, all the three appeals of the assessee are allowed.

**This Order pronounced on 12/11/2024**

Sd/-

Sd/-

(SUCHITRA KAMBLE)

(NARENDRA PRASAD SINHA)

**JUDICIAL MEMBER**

**ACCOUNTANT MEMBER**

Ahmedabad; Dated 12/11/2024

S. K. SINHA

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

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, अहमदाबाद / DR, ITAT,  
Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad