

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Makarand V. Mahadeokar, Accountant Member**

**ITA No. 1560 /Ahd/2024
Assessment Year 2017-18**

Government Employees Co. Op. Credit Society Ltd., Bhavnagar-364001 PAN: AAAAG5825A (Appellant)	Vs	The ACIT, Circle-1, Bhavnagar-364001 (Respondent)
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**Assessee by: Shri Jignesh Parikh, A.R.
Revenue by: Shri Nitin Vishnu Kulkarni, Sr. D.R.**

Date of hearing : 21-10-2024
Date of pronouncement : 24-10-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This is an appeal filed by the assessee against the order of the Id. Commissioner of Income Tax, Appeal, Addl/JCIT(A), Thane, in proceeding u/s. 143(3) vide order dated 22/07/2024 passed for the assessment year 2017-18.

2. The grounds of appeal are as under:-

"1. On the facts and in the circumstances of the case as well in law Id. Commissioner of Income Tax, Appeal

ADDL/JCIT (A) Thane (for the sake of brevity "The Ld CIT(A)") erred in upholding the order of the Assessment Unit, National Faceless Assessment Centre / ACIT Circle 1, Bhavnagar (for the sake of brevity "The ld AO") passed u/s 143(3) of the Income-tax Act, 1961.

2 On the facts and in the circumstances of the case as well in law, The Ld CIT(A) erred in upholding the action of The Ld. AO in making addition of Rs 7,87,374/ by allowing the claim of deduction u/s 80P(2)(a)(i).

3. On the facts and in the circumstances of the case as well in law, the Ld. CIT(A) erred in upholding the action of the Ld. AO in making addition of Rs 7,87,374/- by disallowing the claim of deduction u/s 80P(2)(d)

4. The appellant further reserves its right to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of an appeal.

3. The assessee company was engaged in the business of granting various credit facilities to its members and is a registered co-operative society. The assessee society filed return of income declaring total income at Rs. Nil on 05-03-2018. Thereafter, the case was selected scrutiny under CASS. First statutory notice u/s. 143(2) of the Act was issued on 17-08-2018. Notice u/s. 142(1) of the Act along with detailed questionnaire was also issued on 04-12-2019 thereby calling upon the assessee society related to deduction claimed under Chapter VIA. The assessee submitted the submissions and reply thereby stating that the deduction claimed u/s. 80P of the Act amounting to Rs. 58,50,778/- is in respect of the business conducted by the assessee relating to granting of various credit faculties to its members and earned interest on the same. The Assessing Officer observed that the

assessee earned interest income of Rs. 7,87,374/- from fixed deposits with Bhavnagar District Co-operative Bank. The Assessing Officer observed since the said co-operative bank is not a member of the co-operative society, the same was added to the income of the assessee and thus made the addition.

4. Being aggrieved by the assessment order, the assessee filed appeal before the Id. CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Id. A.R. submitted that the CIT(A) was not justified in upholding the addition of the disallowance of the claim of deduction u/s. 80P(2)(a)(i) and 80P(2)(d) of the Act. The Id. A.R. submitted that the deposit in the Bhavnagar District Co-operative Bank was with the co-operative society only as it is District Co-operative Bank is registered under Co-operative Societies Act. the Ld. A.R. relied upon the decision of Hon'ble Gujarat High Court in case of Gujarat District Co-operative Mill Producers Union vs. ACIT (SCA No. 5931 of 2022) as well as Kutlary Kariyana Merchant Sahakari Mandali Ltd. vs. ACIT (2022) 140 taxmann.com 602 (Guj) which was subsequently amended by MA order dated 26-04-2024. The Id. D.R. relied upon the assessment order and the order of the CIT(A).

6. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that in assessee's own case for assessment year 2020-21, the said disallowance was allowed by the Tribunal being ITA No. 267/Ahd/2024 order dated 18-07-2024. Thus, the facts of the present assessment year is also identical to the facts of the earlier decision in

assessee's own case. No distinguishable facts were pointed out by the Id. D.R. Further the decision of Hon'ble Gujarat High Court in case of Kutlary Kariyana Merchant Sahakari Mandali Ltd. (amended order dated 26-04-2024), the deduction has to be allowed on the interest income which qualifies u/s. 80P(2)(d) of the Act when the same is derived from investment in the other co-operative societies or co-operative banks as the said banks are also registered under Co-operative Societies Act. Thus, the appeal of the assessee is allowed.

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

Order pronounced in the open court on 24-10-2024

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER
Ahmedabad : Dated 24/10/2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद