

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.4716/MUM/2024

(Assessment Year :2020-21)

Income Tax Officer

Ward – 28(3)

Room No. 316, 3rd Floor,

Tower No. 6, Vashi Rly Stn

Navi Mumbai – 400703

..... Appellant

v/s

**Shree Kulswami Co-operative Credit
Society Ltd,**

F-3/1, A.P.M.C Central,

Faculty Bldg, Sector -19,

APMC Market, Turbhe,

Navi Mumbai – 400705.

PAN – AAAAS2059L

..... Respondent

Assessee by :Shri Shri Sushant Alme

Revenue by : Shri Suhas Dabade, Sr.DR

Date of Hearing – 23/10/2024

Date of Order - 23/10/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the Revenue challenging the impugned order dated 18/07/2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2020-21.

2. In this appeal, the Revenue has raised the following grounds: -

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing deduction u/s 80P of the Income Tax Act, 1961 by holding that the assessee being a Co-operative Credit Society is not a Co-operative Bank and hence is entitled for deduction u/s 80P of the Income Tax Act, 1961.

2 On the facts and circumstances of the case and in law, the Ld. CIT(Appeal) erred in directing the Assessing Officer to verify the details and allow deduction of Rs. 9,03,66,591/-as per the provisions of section 80P(2)(a)(i) of the Act

3 On the facts and circumstances of the case and in law, the Ld. CIT(Appeal) erred in directing the Assessing Officer to verify the details of the interest income earned by the assessee and allow deduction as per the provisions of section 80P(2)(d) of the Act in respect of the interest income received by the assessee on account of deposit in cooperative bank.

4 The appellant craves leave to add, alter, amend or modify any or all grounds till the disposal of the Appeal."

3. The solitary issue which arises for our consideration in the present case pertains to the claim of deduction under section 80P(2) of the Act.

4. The brief facts of the case are that the assessee is a Co-operative Credit Society registered under Maharashtra Co-Operative Societies Act, 1960. The assessee is engaged in providing credit facilities to its members. For the year under consideration, the assessee filed its return of income on 28/01/2021 declaring a total income of INR 1,26,140 after claiming a deduction of INR 9,03,66,591 under section 80P of the Act. The Assessing Officer ("AO") vide order dated 27/09/2022 passed under section 143(3) read with section 144B of the Act denied the deduction claimed under section 80P of the Act on the interest income earned by the assessee from the fixed deposits made in co-operative banks by treating the same as income from other sources. The learned CIT(A), vide impugned order,

allowed the appeal filed by the assessee and held that the assessee is entitled to claim deduction under section 80P(2)(a)(i) and section 80P(2)(d) of the Act in respect of the interest income received by it on account of deposits in the co-operative bank and co-operative society. Being aggrieved, the Revenue is in appeal before us.

5. Having considered the submissions of both sides and perused the material available on record, we find that the coordinate bench of the Tribunal in assessee's own case in ITO vs M/s. Kulswami Coop. Credit Society Ltd., in ITA Nos. 3223/Mum/2011 & 505/Mum/2012, for the assessment years 2007-08 & 2008-09, vide order dated 28/03/2014 held that the assessee is a Co-operative Society and is entitled to deduction under section 80P of the Act. We further find that the Hon'ble Jurisdictional High Court in CIT vs Shri Kulswami Coop. Credit Society Ltd., in ITA No. 1682 and 1873 of 2014, vide order dated 20/03/2017 dismissed the appeal filed by the Revenue against the aforesaid order for the assessment years 2007-08 & 2008-09. We further find that the claim of the assessee under section 80P(2)(a)(i) of the Act has been allowed by the coordinate bench of the Tribunal in other preceding assessment years as well.

6. Since this issue is recurring in nature and has been decided in favour of the assessee in preceding assessment years, therefore respectfully following the judicial precedents in assessee's own case cited supra, we find no infirmity in the impugned order passed by the learned CIT(A) on this issue. Accordingly, the same is upheld and the grounds raised by the Revenue in its appeal are dismissed.

7. In the result, the appeal by the Revenue is dismissed.

Order pronounced in the open Court on 23/10/2024

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

MUMBAI, DATED: 23/10/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai