



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2080/PUN/2024

निर्धारण वर्ष / Assessment Year: 2017-18

Veej Kamgar Co-operative Credit Society Ltd., Vidyut Bhavan, New Mondha, Nanded District, Nanded – 431602. PAN: AAAJV0065E	V s	The Income Tax Officer, Ward-1, Nanded.
Appellant/ Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Shri Manoj Tripathi - DR
Date of hearing	25/11/2024
Date of pronouncement	26/11/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee against the order of  
ld.Commissioner of Income Tax(Appeals)[NFAC] for A.Y.2017-  
18 dated 18.01.2024 passed u/sec.250 of the Income tax Act, 1961.

The Assessee has raised the following grounds of appeal :

*“1. That the Ld.AO erred in passing the assessment order by disallowing the deduction of the assessee on the grounds that the assessee is not eligible for deduction under section 80(P)(a)(i) of the Income Tax Act, 1961, on the interest income received from*



*Nationalized Banks, and assessed the same as 'Income from Other Sources', thereby raising a demand of Rs.23,93,554/-.*

2. *That Ld.CIT(A) has erred by confirming the disallowance of the deduction under section 80P(2)(a)(i) of the Income Tax Act, amounting to Rs.23,93,554/- by the Ld. AO. The disallowance was based on the ground that Interest Income earned from State Bank of Hyderabad or Nationalised banks by the appellant is necessarily required to be treated as Income under the head 'Income from Other Sources', which does not qualify for deduction under either section 80P(2)(a)(i) or section 80P(2)(d), thereby confirming a demand of Rs.23,93,554/-.*

3. *The Appellate Craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of the appeal, if deemed necessary at the time of hearing of the appeal."*

2. At the outset of hearing, no one appeared on behalf of the assessee. However, assessee has filed a paper book containing 44 pages.

### **Findings & Analysis :**

3. We have heard ld.DR for the Revenue and perused the records. It is observed that there is a delay of 300 days in filing appeal before this Tribunal. Assessee has filed a petition for condonation of delay which is at page no.1 to 6 of the paper book. It has been submitted that the Secretary of the assessee expired due to Heart Attack. Then, some time was lost in appointment of New Secretary. We find that there was sufficient cause for delay. Accordingly, delay is condone.



3.1 The assessee is a Co-operative Credit Society. Assessee filed Return of Income on 07.11.2017 electronically. Assessee claimed deduction u/sec.80P(2)(a)(i) of the Act. The Assessing Officer(AO) observed as under in para XI :

*“xi. In the light of the above facts, the interest earned on the contribution made in the Fixed Deposits for long term periods with SBH without taking special permission of the Registrar of Co-operative Societies is liable for disallowance u/s.80P(2)(a)(i) of the Act. The total interest of Rs.51,91,462/- is claimed to have been earned by the assessee co-operative society during the year, out of which an amount of Rs.27,97,908/- is accrued from the reserve fund maintained with Nanded Dist. Central Co-Op. Bank, Nanded and balance amount of interest of Rs.23,93,554/- is earned on other funds and FDRs. The interest received from the reserve fund with co-operative banks is statutory obligation of the MCS Act and hence deductible u/s.80P(2)(a)(i) of the Act. Considering the above, the interest received on FDRs amounting to Rs.23,93,554/- is disallowed u/s.80P(2)(a)(i) of the Act and added back to the total income of the assessee co-operative society as Income from other sources u/s.56 of the Act.”*

3.2.1 Thus, Assessing Officer observed that assessee has invested its surplus funds in State Bank of Hyderabad and earned Interest Income. Assessee had claimed deduction u/sec.80P(2)(a)(i) of the Act on the Interest Income. Assessing Officer(AO) disallowed the deduction Interest Income of Rs.23,93,554/-.



3.3 The Id.CIT(A) confirmed the disallowance.

4. The Hon'ble High Court of Andhra Pradesh and Telangana in the case of Vavveru **Co-operative Rural Bank Ltd.** [2017] 396 ITR 371 analysed the provisions of Section 80P, succinctly distinguished the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society, and held as under :

*Quote, "8. Therefore, the real controversy arising in these writ petitions is as to whether the income derived by the petitioners by way of interest on the fixed deposits made by them with the banks, is to be treated as profits and gains of business attributable to any one of the activities indicated in sub-clauses (i) to (vii) of clause (a) of sub-section (2) of section 80P or not.*

*9. While the petitioners place strong reliance upon a decision of the Division Bench of this court in CIT v. Andhra Pradesh State Co-operative Bank Ltd. [2011] 12 taxmann.com 66/200 Taxman 200/336 ITR 516, the Revenue places strong reliance upon the decision of the Supreme Court in Totgar's Co-operative Sale Society Ltd. v. ITO [2010] 188 Taxman 282/322 ITR 283.*

.....

*34. The case before the Supreme Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) was in respect of a co-operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of marketing agricultural produce of the members of the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) that the business activity other than marketing of the agricultural produce actually resulted in net loss to the society. Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that the assessee did not pay to its members the proceeds of the sale of*



*their produce, but invested the same in banks. As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members. The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note.*

*35. But, as rightly contended by the learned senior counsel for the petitioners, the investment made by the petitioners in fixed deposits in nationalised banks, were of their own monies. If the petitioners had invested those amounts in fixed deposits in other co-operative societies or in the construction of godowns and warehouses, the respondents would have granted the benefit of deduction under clause (d) or (e), as the case may be.*

*36. The original source of the investments made by the petitioners in nationalised banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".*

*37. Therefore, we are of the considered view that the petitioners are entitled to succeed. Hence, the writ petitions are allowed, and the order of the Assessing Officer, in so far as it relates to treating the interest income as something not allowable as a deduction under section 80P(2)(a), is set aside." Unquote.*

4.1 Thus, Hon'ble High Court of AP & TS held that Interest Income earned by investing Income derived from Business and Profession by a Co-Operative Society was eligible for deduction u/sec.80P(2)(a) of the Act.

4.2 No contrary decision of the Hon'ble jurisdictional High Court has been brought to our notice. Therefore, as per rule of precedence, the proposition of law laid down by the Hon'ble High Court of AP & TS (supra) are binding precedents for us.



4.3 The Hon'ble ITAT Pune Bench in the case of Kolhapur District Central Co-op. Bank Kanista Sevakanchi Sahakar Pat Sanstha Ltd. Vs. Income-tax Officer 158 taxmann.com 322 (Pune Tribunal) has held as under :

*Quote "7.....I am of the considered opinion that even the interest income earned by cooperative society on deposits made out of surplus funds with cooperative banks as well as schedule bank qualifies for deduction both under the provisions of section 80P(2)(a)(i) and section 80P(2)(d) of the Act, therefore, the reasoning given by the lower authorities on this issue cannot be accepted. Therefore, I direct the Assessing Officer to allow deduction u/s 80P(2)(a)(i) and 80P(2)(d) in respect of interest income earned from cooperative bank/scheduled bank. Thus, the ground of appeal filed by the assessee stands allowed."*Unquote

4.4 The Hon'ble ITAT Pune Bench in the case of Yashwant Nagari Sahakari Patsanstha Maryadit Vs. ITO in ITA No.644/PUN/2024 dated 04.06.2024 held that the assessee was eligible for deduction u/sec.80P(2)(a) of the Act on the Interest earned by assessee.

4.5 Respectfully following the decision of the Hon'ble High Court (supra) and ITAT Pune(supra), it is held that the impugned Interest earned by the assessee is eligible for deduction u/sec.80P(2)(a) of the Act. Accordingly, Grounds of appeal raised by the assessee are allowed.



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

Order pronounced in the open Court on 26<sup>th</sup> November, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 26<sup>th</sup> Nov, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच,  
पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.