



।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.2081/PUN/2024

निर्धारण वर्ष / Assessment Year: 2020-21

Tulaji Nagari Sahakari Patsanstha Maryadit, Tuljapur Kurd, Near Tuljabhavani Tample, (Khurd) Tuljapur, Osmanabad, Maharashtra – 413601. PAN : AACAT4482E	V s	The Income Tax Officer, Ward-1, Latur.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Sarang Gudhate – AR
Revenue by	Shri Manoj Tripathi – DR
Date of hearing	26/11/2024
Date of pronouncement	29/11/2024

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 Assessment
Year 2020-21 dated 22.08.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :

“1. Under the facts and circumstances of the case and in law,



Ld.CIT(A)/NFAC has erred in not condoning delay in filing of appeal.

2. *Under the facts and circumstances of the case and in law, Ld.Assessing Officer is erred in disallowing the deduction U/s 80P of Rs.6,43,237/-*

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

Submission of ld.AR :

2. Ld.AR filed a paper book and written submission. Written

Submission of assessee as under :

“Ground No. 2 - Assesse is Eligible for Deduction u/s 80P of Rs.6,43,237/-

4.1 *Submission in the Assessment and Appellate Proceedings*

In Assessment Proceedings and in the appellate proceedings assessee submitted the nature of each activity as under:

a. ***Recovery of Commission Rs.4,95,102/-***

Commission income is earned from our members only. Our society had scheme namely pigmy deposit scheme. Under pigmy deposit scheme, society staff visits members daily to their location such as shops, offices or residence and collects small cash say Rs.100 on every working day or Rs. 200/- on every working day and the cash collected is deposited into respective member's pigmy deposit account. For this collection work, society gives commission of 3 to 4% to the society staff as a commission and recorded in books as commission expenses. Also society deducts TDS on such commission and pay to the government by filing TDS return. The main objective of this scheme is to culture the habit of saving in to the members of the society. Now, as per pigmy deposit scheme norms, members cannot withdraw such deposited amount till the expiry of six month from the date of deposits and if any members withdraw cash before end of six month from date of deposit then society charges members 4% of the withdrawal amount as commission recovery (earlier commission paid to the society staff for collecting the cash from members), such recovery amount is



recorded in societies books as commission income. This is due to the fact that society had already paid commission to the collecting staff to nurture the saving habits. So this commission charge is nothing but commission recovery from members which is already paid for collecting money from members. Hence we can say this is societies main business activity only, and this commission is entirely collected from the members and eligible for deduction under section 80P.

b. ATM Commission receipts Rs. 4,625/-

Society allows members to use swipe machine to transfer money from their other banking accounts to the members account maintained with the society and collects charges Rs 10 per transaction. Such commission charged to the members are amounting to Rs. 4,625/-. This amount also received from the members only.

c. Share Transfer fees Rs. 20/-

Share transfer fees is Rs 20/- in assessment year charged by the society to the members for transfer of shares to members legal heir.

d. Sale of Stationary to the members Rs. 1,30,012/-

Society charges members nominal fees for sale of application forms, account opening form, loan application form, for revenue stamps and other documents etc. Such sale of stationary income is amounting to Rs.1,30,012/- in assessment year, which is nothing but income earned from members only.

e. Recovery of Court expenses from members Rs. 4,500/-

Court expenses incurred for the member loan default is recovered from members.

Such recovery of court fees is amounting to Rs. 4,500/-.

f. Penalty charges recovery from members Rs. 6,218/-

Society charges penalty to the members for non submission of documents on timelybasis and other small defaults. Such penalty charges amount is Rs.6,218/-.

g. Entry fees for new members Rs. 1,260/-

Society charges small amount as entry fees for new members amounting to Rs.1,260/-.

h. Insurance recovery from members Rs. 1,500/-



This is recovery of insurance expenses incurred on behalf of members. Such amount of insurance recovery amount is Rs.1,500/- in assessment year.

4.4 The above activities which are considered as not attributable for activity of providing credit facility to its members by Ld Assessing Officer are much more needed and in directly relating to activity of providing credit facility to its members.

4.5 In the matter, assessee relied on the decision of Hon'ble Madhya Pradesh High Court in case of CIT Vs. Dhar Central Cooperative Bank, 149 ITR 438 (MP) wherein following question of law is framed by the Hon'ble Madhya Pradesh High Court:

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the income from commission and brokerage, subsidy from Government, admission fee, incidental charges, financial penalties and miscellaneous income is not exempted under the provisions of s. 80P(2)(a)(i) of the IT Act, 1961?"

The said question of law is answered in favour of assessee in "para 3" of the judgement as under:

"3. The answer to the first question depends upon the question as to whether the income from commission, brokerage, subsidy from Government, admission fee and incidental charges can be held to be income attributable to the business of banking carried on by the assessee. The Tribunal has referred to the provisions of s. 5 of the Banking Regulation Act, 1949, and held that the aforesaid income was derived from activities, which were outside the scope of "banking", as defined by s. 5(b) of that Act. In our opinion, what is material for the purpose of s. 80P of the Act is whether the income, in respect of which deduction is claimed, is attributable to an activity, which is normally a part of the business of banking or business of providing credit facilities to its members by a co-operative society. Judged by this test, income earned by the assessee from commission and brokerage by dealing in bills of exchange, subsidy from Government, admission fee from members, incidental charges and financial penalties, is all attributable to the business of banking or providing credit facilities to its members and, hence, deductible under s. 80P of the Act"

Copy of Case Law is enclosed herewith. (Refer Page No. 9 to 10 of Legal Compilation)



4.6 Further, Jurisdictional Pune ITAT in case of Maulikripa Nagari Sahakari Patsanstha Maryadit Vs. Income Tax Officer, Ward 14(4) ITA 397/PUN/2024, further expanded the scope of Section 80P(2)(a)(i) and allowed the deduction in respect of Commission income earned from MSEDCL bill collection.

4.8 From the above it is clear that, the commission income of Rs.4,99,727/- and income from other sources of Rs.1,43,510/- totaling to Rs 6,43,237/- is attributable to activity of providing credit facility to its members hence eligible for deduction u/s 80P(2)(a)(i).

4.10 Alternatively, If your honor feels that assesses activity is not eligible for deduction u/s80P(2)(i)(a) with respect to receipt of Rs.6,43,237/-

a. Proportionate deduction with respect to expenses incurred to earn such income needs to be allowed. It is settled position of law that, in ascertaining income element in receipts, proportionate expenditure needs to be deducted out of total expenditure, and gross receipts cannot be taxable.

b. Those activities will be eligible for deduction u/s 80P(2)(c).”

3. Assessee relied on list of case laws :

- Collector, Land Acquisition, Anantnag and Anr. Vs Ms.Katiji and Others
- Sitaldas K. Motwani Vs. Director General Of Income Tax & Ors
- CIT Vs. Dhar Central Cooperative Bank
- Maulikripa Nagari Sahakari Patsanstha Maryadit Vs. Income Tax Officer
- South Arcot District Co- Operative Marketing Society Ltd.
- Meenachil Rubber Marketing & Processing Cooperative Society Ltd.
- Karnal Co-Operative Sugar Mills Ltd.
- Mavilayi Service Co-Operative Bank Ltd.



Submission of Id.DR :

4. Ld.DR for the Revenue relied on the order of the Assessing Officer(AO) and Id.CIT(A). Ld.DR submitted that commission income is not a business income of the assessee, therefore, assessee is not eligible for deduction u/sec.80P of the Act.

Findings & Analysis :

5. We have heard both the parties and perused the records. The assessee had filed return of Income for A.Y.2020-2021 on 25/12/2020 showing NIL income and claiming deduction u/s 80P of Rs.75,53,887/-. The assessee is a credit cooperative society, engaged in the business of providing credit facility to its members. The assessee's case was selected for Limited Scrutiny. During the Assessment proceedings the Assessing Officer noted that following income earned by the assessee is not linked to the business of providing credit facility hence not eligible for deduction u/s 80P(2)(a)(i) of the Act.

<i>Nature</i>	<i>Amount</i>
<i>Recovery of commission from members</i>	<i>4,95,102</i>
<i>ATM commission</i>	<i>4625</i>
<i>Share Transfer Fee</i>	<i>20</i>
<i>Cost of Loan Forms other documents recovered from members</i>	<i>1,30,012</i>
<i>Recovery of court expense</i>	<i>4500</i>
<i>Entry Fee for new members</i>	<i>1260</i>
<i>Insurance recovery from members for Loan</i>	<i>1500</i>
<i>Other recovery from members</i>	<i>6218</i>
<i>Total</i>	<i>6,43,237/-</i>



5.1 It is observed that assessee has appointed agents for collecting particular amounts from members every day which is deposited in their accounts called “Pigmy Deposits”. There is lock in period of three months for such accounts. However, whenever some members withdraw amount from such account before completion of three months the Assessee recovers the commission amounts paid by assessee to collection agents from such members. Thus, this income is directly derived from the business of the assessee. ATM commission is also directly attributable to the business of the assessee. Similarly, the other items mentioned above have been earned during the business of the assessee and derived from the business of the assessee.

5.2 The ITAT Pune in the case of Bhagyalaxmi Nagri Sahakari Patsanstha Maryadit Vs. ITO 705 & 706/PUN/2021 vide Order dated 14-03-2022, which has been authored by then Vice President ITAT, held as under :

Quote, “The first item is the commission income from MSEDCL amounting to Rs.60,363/-. The assessee has contended in its written submissions that similar issue came up for consideration before the Pune Tribunal in Banganga Nagri Sah. Patsanstha Ltd. (ITA No.873/PUN/2014) and the Tribunal, vide its order dated 3103-2016, allowed the deduction on commission of collection of MSEDCL bills



by holding that it was from the business activity carried on by the assessee. The Tribunal, for allowing such deduction in Banganga Nagri Sah. Patsanstha Ltd. (supra), in turn, relied on another order passed by the Tribunal in the case of the same assessee for the assessment years 2010-11 and 2011-12. In view of the above order passed by the Tribunal, it is clear that the activity of earning commission from collection of bills relating to MSEDCL has been held as eligible business activity and resultantly allowed granted deduction u/s.80P. The ld. DR fairly conceded the position but relied on the impugned orders on this score. In view of the fact that commission income on collection of bills from MSEDCL has been made eligible for deduction u/s.80P(2)(a) on the ground of the same being in the nature of business activity, I allow the assessee's claim in respect of similar commission income of Rs.60,363/-."

5.3 Similarly, ITAT Pune in the case of Maulikripa Nagari Sahakaric Patsanstha Maryadit Vs. ITO 397/PUN/2024 allowed the appeal of the assessee on identical facts.

5.4 In these facts and circumstances of the case, respectfully following the decisions of ITAT Pune, we hold that the above referred income is directly derived from the business of the assessee, hence eligible for deduction u/s.80P(2)(a)(i) of the Act. Therefore, the Ground Number 2 raised by the assessee is allowed.

6. Since we have allowed the Ground Number 2 on merits of the case, the Ground Number 1 and 3 becomes academic.



Accordingly, the Ground Number 1 and 3 are dismissed unadjudicated.

7. In the result, the appeal of the assessee is Partly Allowed.

Order pronounced in the open Court on 29th November, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 29th 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.