

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC " BENCH, AHMEDABAD

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
And  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1481/AHD/2024  
निघरिण वर्ष/Asstt. Year: 2017-2018

The State Transport Employees Co Operative Credit and Thrift Society, S.T Divisional Office, Modhera Char Rasta, Mehsana-384002.  <b>PAN: AAABT0216B</b>	बनामVs	D.C.I.T, Circle, Gandhinagar.
---	--------	-------------------------------------

(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)
------------------------	--	--------------------------

Assessee by :	Shri Sunil Talati, AR
Revenue by :	Shri Nitin Vishnu Kulkarni, Sr. DR

सुनवाई की तारीख/Date of Hearing : 24/10/2024  
घोषणा की तारीख/Date of Pronouncement: 05/12/2024

**आदेश/ORDER**

**PER SUCHITRA KAMBLE, JM:**

The captioned appeal has been filed at the instance of the Assessee against the order dated 25/06/2024 passed by the Learned Commissioner of Income Tax (Appeals), Gandhinagar, arising in the matter of assessment order passed under s. 143 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal:

1. *The Ld. CIT (A) has erred in law and on facts in confirming the disallowance of the deduction of Rs. 4,57,961/- claimed u/s. 80P(2)(d) of the Act in respect of the interest received from the Co-operative Banks. The interest earned from Co-operative Banks is eligible for deduction under section 80P(2)(d) as it represents income derived from investments with other co-operative societies/ co-operative Banks. It is submitted that the same be held now and disallowance be deleted.*

2. *The Ld. CIT (A) has erred in confirming the disallowance of the deduction of Rs. 1,73,036/- claimed u/s. 80P(2)(a)(i) of the Act in respect of the interest received from the Nationalized Banks. It is submitted that on the facts and circumstances of the case, the appellant has rightly claimed the interest received from the Nationalized Banks u / S . 80P(2)(a)(i) of the Act. It is submitted that the same be held now.*

3. *Without prejudice to the above, Ld. CIT (A) has erred in considering the interest income received from cooperative banks of Rs 6.30,997/- as fully taxable u/s 56 of the Act without allowing the pro-rata expenditure incurred u/s. 57 of the Act. It is submitted that only the net interest income, after allowing the pro-rata expenditure incurred, should be taxed. It is submitted that the same be allowed now.*

4. *The Ld. CIT(A) has erred in non-granting the basic deduction u/s 80P(2)(c) of Rs 50,000/-, inasmuch as the appellant is a co-operative society and is entitled to such deduction. This deduction is a statutory entitlement for Co-operative societies, and its denial is contrary to the provisions of the Act. It is submitted that the same be granted now.*

5. *The order passed by the Ld.CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.*

6. *Your appellant craves leave to add, alter, and/or to amend all or any of the grounds before the final hearing of the appeal.*

3. The assessee is a co-operative credit society engaged in providing credit facilities to its members. The assessee e-filed return of income declaring total income of Rs. Nil, after claiming deduction of Rs.34,32,392/- u/s.80P of the Income Tax Act 1961. The case was selected for scrutiny through CASS and subsequent notices u/s.143(2) and 143(1) of the Act, were issued and served upon the assessee along with the questionnaire. In response, the assessee filed the submission. The Assessing Officer observed that during the assessment proceedings the assessee claimed deduction u/s.80P of the Act, totalling to Rs.34,33,392/- which comprises of deduction

under various sub section to section 80P of the Income tax Act, including the deduction u/s.80P(2)(d) of the Act of Rs.1,73,036/- on account of interest received and deposits from State Bank of India which is a nationalized bank and not registered as a co-operative society. Thus, the AO made the addition of Rs.1,73,036/- in the light of decision of Hon'ble Apex Court in the case of M/s.Totgar Co-operative Sale Society 322 ITR 283(SC). The AO also observed that the assessee has received interest of Rs.95,242/- from the saving bank deposits and interest of Rs.3,62,719/- from fixed deposits with Mehsana District Central Co-operative Bank Limited. Thus, the assessee claimed total amount of Rs.4,57,961/- as deduction u/s.80P(2)(d) of the Act. The assessing officer disallowed the same.

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

5. The Ld.AR submitted that as regard to ground no.1 the interest received from the Co-operative Bank in respect of deduction claimed u/s.80P(2)(d) of the Act is derived from the investment with other Co-operative society/Co-operative bank and the same should be disallowed in the light of decision of Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd. V/s ACIT 421 ITR 134. The Ld.AR further submitted that the interest received by the assessee is from Mehsana District Central Co-operative Bank Limited which is registered under Co-operative Society Act and its member are allowed u/s.80P(2)(d) of the Act.

6. The Ld.DR relied upon the assessment order and the order of the Ld.CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that there is no dispute with the interest of Rs.4,57,961/- was received by the assessee from Co-operative bank which is registered under Co-operative Societies Act. In the light of the decision of the Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd. (Supra) the interest received from Co-operative bank are allowed u/s.80P(2)(d) of the Act. Thus, the ground no.1 is allowed.

8. As regard to ground no.2 relating to disallowance of deduction of Rs.1,73,036/- claimed u/s.80P(2)(a)(i) of the Act, in respect of interest received from the Nationalized Bank i.e State Bank of India. The assessee has rightly claimed the interest received from the SBI as per the contention of the Ld.AR.

9. The Ld.DR submitted that the interest received from Nationalized Bank are not allowable as per the decision of Hon'ble Gujarat High Court in the case of SBI vs CIT reported in (2016) 380 ITR 578(Guj.).

10. We have heard the both the parties and perused the material available on record. It is pertinent to note that the interest received from SBI which is a Nationalized Bank is not allowable as per the section 80(P) of the Act but at the same time the assessee has incurred certain expenditure earned. The said proportionate expenditure should be allowed and needs to be verified therefore the issue is set-aside to the file of the AO for proper adjudication and verification of the component of the proportionate expenditure by receiving this interest income. Needless to say, that the assessee be given an

opportunity of hearing by following the principle of natural justice. Hence, the ground no.2 is partly allowed for statistical purposes.

11. As regard to ground no.3 the same is without prejudice and has been taken into account while deciding the ground no.2.

12. As regard to ground no.4 the Ld.AR submitted the Ld.CIT(A) erred in non-granting deduction u/s.80P(2)(c) of the Act, of Rs.50,000/- in as much as the assessee is co-operative society and entitled to such basic deduction. This, deduction is a statutory entitlement for Co-operative societies and denial to the contrary provision of the Act.

13. The Ld.DR relied upon the assessment order and the order of the Ld.CIT(A).

14. We have heard both the parties and perused the material available on record. It is pertinent to note that as per the section 80(P)(2)(c) of the Act, basic deduction of Rs.50,000/- is allowable to the co-operative societies and therefore the same needs to be allowed. Thus, the ground no.4 is allowed.

15. In the result, the appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced in the Open Court on 05<sup>th</sup> December, 2024 at Ahmedabad.**

Sd/-  
**(MAKRAND VASNAT MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 05/12/2024

*Manish, Sr. PS*

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)-(NFAC)
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad