

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 1874/Del/2023 : Asstt. Year : 2017-18

Maliyana Co-operative Cane Development Union, C/o D. S. Kohli, F.F.-06, Narayan Tower, Gandhi Ashram Lane, Golghar, Gorakhpur, U.P.-273001	Vs	Income Tax Officer, Ward-1(1)(4), Meerut, U.P.
(APPELLANT)		(RESPONDENT)
PAN No. AAAAM6185F		

**Assessee by : Sh. Ibad Mushtaq, Adv.
Revenue by : Sh. Akhilesh Kumar Yadav, Sr. DR**

Date of Hearing: 05.12.2024	Date of Pronouncement: 12.12.2024
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2017-18, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1051871860(1) dated 05.04.2023 in proceedings u/s 144 of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case file perused.
3. It emerges during the course of hearing with the able assistance coming from both the sides that the learned lower authorities have declined the assessee's section 80P deduction claim of Rs.2,36,28,831/- representing it's interest income derived from deposits maintained with co-operative societies/co-operative banks/scheduled banks, as the case may be.

4. Mr. Yadav draws strong support from the lower appellate discussion to this effect in paragraphs 8.2 onwards placing reliance on Totgars Co-operative Sale Society Ltd. Vs. ITO 322 ITR 283 (SC) that such an interest income could not be held to have been derived from the eligible business u/s 80P(2) of the Act.

5. We find no merit in the Revenue's instant vehement arguments in light of (2024) 164 taxmann.com 382 (Pune Tribu.) ITO Vs. Shri Bhairavnath Multistate Cooperative Credit Society Ltd. rejecting the very stand as under:

"5. We heard the rival submissions and perused the material on record. We find this issue is no more res integra by virtue of catena of decisions passed by the Coordinate Benches of this Tribunal. In the present case, we find that admittedly the interest income was earned from the investments out of surplus funds made with cooperative banks/socieites, the cooperative bank is also a specie of cooperative society, therefore, the interest income earned by the cooperative society from the cooperative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. Such interest also qualifies for exemption u/s.80P(2)(a)(i) as held by the Co-ordinate Bench of Pune Tribunal in the case of Nashik Road Nagari Sahkari Patsanstha Ltd. v. ITO [IT Appeal No. 1700 (Pune) of 2017, dated 27-12-2021], wherein the Tribunal held as under:-

"9. We heard the rival submissions and perused the material on record. Admittedly, the appellant is a Cooperative society formed under the provisions of Maharashtra Cooperative Societies Act, 1960 with the objective of accepting deposits and lending money to its members. The money which is not immediately required for the purpose of lending to the members is deposited with Bank of Baroda in the form of Fixed Deposit. The question is whether the interest so earned qualifies for exemption u/s. 80P(2)(a)(i) of the Act. The AO as well as the CIT(A) were of the opinion that the interest earned from third parties or nonmembers does not qualify for exemption u/s.80P. It is an admitted position that the interest so earned should be taxed as 'income from other sources' There is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT v. Punjab State Cooperative Federation of Housing Building Societies Ltd. [2011] 11 taxmann.com 448 (Punjab & Haryana) , the Hon'ble Gujarat High Court in the case of

State Bank of India v. CIT [2016] 72 taxmann.com 64/241 Taxman 163/389 ITR 578 (Gujarat), the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift & Credit Society Ltd. v. CIT [2014] 50 taxmann.com 278/229 Taxman 68 (Delhi), the Hon'ble Punjab & Haryana High Court in the case of CIT v. Punjab State Cooperative Agricultural Development Bank Ltd. [2017] 77 taxmann.com 308/245 Taxman 125/389 ITR 68 (Bombay) and the Hon'ble Kolkata High Court in the case of CIT v. Southern Eastern Employees Cooperative Credit Society Ltd. [2016] 73 taxmann.com 123/390 ITR 524 (Calcutta) took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. v. ITO (2015) 230 taxmann 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v. CIT [(2017) 396 ITR took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s.80P(2)(a)(i) of the Act. The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha Maryadit v. ITO (ITA Nos.559/560/PUN/2018, dated 11-122018) has taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Respectfully following the decision of the Coordinate Bench, we hold that the interest income earned on the investment of surplus money with banks is also eligible for exemption u/s.80P(2)(a)(i) of the Act. Thus, the grounds of appeal No. 1 & 2 stands allowed."

6. Thus, the order passed by the Id.CIT(A) is in conformity with the settled position of law by virtue of the above discussion. Therefore, we affirm the impugned order directing the Assessing Officer to allow the claim of exemption u/s.80P(2)(a)(i)/80P(2)(d) on the interest income earned on investments made out of surplus funds made with Cooperative banks, Cooperative Societies and Nationalized banks."

6. We adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee's instant sole substantive ground in very terms. Necessary computation shall follow as per law.

7. This assessee's appeal is allowed in above terms.
Order Pronounced in the Open Court on 12/12/2024.

Sd/-

(M. Balaganesh)
Accountant Member
Dated: 12/12/2024

Sd/-

(Satbeer Singh Godara)
Judicial Member

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR