



।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.2185/PUN/2024
निर्धारण वर्ष / Assessment Year: 2017-18

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| Dhule Jilha Prathamik Shikshakanchi Sahakari Patpedhi Ltd., Plot No.3. Abhiyanta Nagar, Wadibhokar Road, Dhule – 424002. PAN: AABTD7183N | V s | The Income Tax Officer, Ward-1, Dhule. |
| Appellant/ Assessee | | Respondent / Revenue |

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|-----------------------|----------------------------------|
| Assessee by | Shri Shirude M.R. – AR |
| Revenue by | Shri Manish Mehta – Addl.CIT(DR) |
| Date of hearing | 05/12/2024 |
| Date of pronouncement | 10/12/2024 |

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 2017-18 dated 05.09.2024 passed u/sec.250 of the Income tax
Act, 1961. The Assessee has raised the following grounds of
appeal :



“1. In these facts, circumstances and position of law assessment order under appeal is bad in law illegal and void ab initio and hence may be annulled.

2. In the facts, circumstances and position of law learned CIT(A), NFAC, Delhi has erred in confirming the addition of Rs.5,87,740/- i.e. disallowance of deduction u/s.80P(2)(a)(i) of the I.T.Act, 1961.

3. Appellant craves leave to add, alter, amend or substitute to the above grounds of appeal either before or during the course of hearing.”

Findings & Analysis :

2. In this case, assessee had filed Return of Income for A.Y.2017-18 on 01.12.2017 claiming deduction u/sec.80P of Rs.84,94,181/-. The assessee is a Co-operative Credit Society registered under Maharashtra Co-operatives Societies Act, 1960. The main activity of the assessee is providing credit facility to its members.

2.1 The Assessing Officer(AO) disallowed Rs.5,87,740/- which was the interest received by assessee from Nationalized Banks. The AO in the assessment order held that the Interest Income of Rs.5,87,740/- which was received from Nationalized Banks is not eligible for deduction u/sec.80P(2)(a)(i) of the Income Tax Act.



2.2 Assessee filed an appeal before the ld.CIT(A). Ld.CIT(A) confirmed the disallowance made by Assessing Officer(AO) relying on the decision in the case of PCIT Vs. Totagars Co-operative Sales Society Ltd. Aggrieved by the order of the ld.CIT(A), the assessee has filed appeal before this Tribunal.

2.3 Assessee filed an elaborate paper book containing 159 pages. The only issue is denial of deduction u/sec.80P(2)(a)(i) of the Act on Interest Received from Nationalized Banks.

3. 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 Totagars 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.*



3.1 Thus, the 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.

3.2 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. 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



4.1 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.

5. Respectfully following the judicial precedent, we direct the Assessing Officer to allow deduction u/sec.80P(2)(a)(i) of the Act on the interest amount of Rs.5,87,740/-. Accordingly, the Ground No.2 of the Assessee is allowed.

Ground No.1 :

6. Assessee has raised Ground No.1 that the assessment order does not have DIN Number. However, we have observed that the assessment order for A.Y.2017-18 dated 13.11.2019 have number, the screenshot is as under :

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|--|--|--|----------------------|
| PAN: AABTD7183N | AY: 2017-18 | Order No: ITBA/AST/S/143(3)/2019-20/1020320716(1) | Dated: 13/11/2019 |
| Name of the assessee | DHULE JILHA PRATHAMIK SHIKSHAKANCHI SAHAKARI PATPEDHI LTD DHULE | | |
| Address of the assessee | ABHIYANTA NAGAR PLOT NO 3, WADIBHOKAR ROAD DHULE, DHULE 424002, Maharashtra, India | | |
| Status | TRUST | | |
| Range/Circle/Ward | WARD 1, DHULE | | |
| Resident/Resident but not Ordinary resident/ Non-resident | Resident | | |
| Date of Hearing | 03/09/2018, 15/07/2019, 06/11/2019 | | |
| Section/Sub-section under which assessment is made | 143(3) | | |
| Date of Order | 13/11/2019 | | |



6.1 Thus, it is observed that there is a specific number in the assessment order. DIN means Document Identification Number. In this case, there is a specific number on the assessment order. This specific number is computer generated. Therefore, the specific number mentioned on the assessment order is nothing but DIN, i.e. Document Identification Number. During the hearing, we have specifically brought out this fact to the notice of Id.Authroised Representative of the assessee. However, Id.AR has not made any submission other than stating that the specific number is not DIN. The CBDT Circular No.19/2019 dated 14.08.2019 regarding DIN states as under :

“2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 Income-tax Act, 1961 (hereinafter referred to as “the Act”), has decided that no communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless a computer-generated Document Identification Number(DIN) has been allotted and is duly quoted in the body of such communication.”

6.2 The number which we have reproduced above fulfils the criteria mentioned in CBDT Circular No.19/2019. Therefore, there is proper compliance of CBDT Circular No.19/2019. Accordingly,



assessee's ground no.1 that assessment order is bad in law is dismissed. Accordingly, Ground No.1 of the assessee is dismissed.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 10th December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 10th Dec, 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.