



।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B" :: PUNE

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

आयकर अपील सं. / ITA Nos.1325& 1328/PUN/2024

निर्धारण वर्ष / Assessment Years : 2014-15 & 2015-16

Prakashbapu Patil Gramin Bigar Sheti Sahakari Pat Sanstha Ltd., Sahakari Pat Sanstha Ltd., Savali Miraj, Sangli – 416410. Maharashtra. PAN: AAAAP1616N	V s	The ACIT, Circle-Sangli.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Smt. Deepa Khare – AR
Revenue by	Shri Rajesh Gawali – Addl.CIT(DR)
Date of hearing	19/12/2024
Date of pronouncement	23/12/2024

**आदेश/ ORDER**

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

These two appeals filed by the assessee are against the separate orders of Id.Commissioner of Income Tax(Appeals)[NFAC] for Assessment Years 2014-15 and 2015-16; dated 05.04.2024 and 10.04.2024 respectively; passed u/sec.250 of the Income tax Act, 1961. Since the issue involved is common,



both these appeals were heard together and decided by the common order. We will take the A.Y.2014-15 as a lead case.

1.1 The assessee for A.Y.2014-15 has raised the following grounds of appeal :

*“1. The learned CIT(A) erred in law and on facts in confirming levy of penalty of Rs.1,04,129/- u/s 271(1)(c) in respect of income which is eligible for deduction u/s 80P.*

*2. The learned CIT(A) erred in law and on facts in confirming levy of penalty of Rs.1,04,129/- u/s 271(1)(c) without appreciating that the claim u/s 80P is a sustainable based on the legal precedent and did not amount to furnishing inaccurate particulars of income.*

*3. The appellant craves leave to add, alter, modify or substitute any ground of appeal.”*

**Submission of Id.AR :**

2. Ld.Authorised Representative(Id.AR) of the Assessee submitted that Assessee is a Co-operative Credit Society registered under Co-operative Society’s Act, Maharashtra. The main object of the Society is lending small loans and accepting deposits from its members. Assessee had not earned any other income and entire income pertains to the said activity. Assessee filed its Return of Income under section 139(1) of the Act for A.Y.2014-15 on



13.03.2015 declaring total income at Rs.NIL and claiming deduction u/sec.80P of the Act. During the assessment proceedings, Assessing Officer(AO) observed that assessee has shown interest income of Rs.29,17,779/- including interest earned from various banks and claimed deduction under section 80P on interest income of Rs.3,46,986/- received from various banks. Ld.Assessing Officer disallowed assessee's claim of deduction u/sec.80P of the Act. Assessee filed an appeal before ld.CIT(A), but it was dismissed on account of delay. Assessee filed an appeal before ITAT Pune. ITAT in a common order, in ITA No.1260 to 1262/PUN/2023 for A.Y.2013-14 to A.Y.2015-16 set-aside the order of ld.CIT(A) for denovo adjudication.

2.1 However, Assessing Officer passed penalty order under section 271(1)(c) of the Act on 23.09.2022. Ld.Authorised Representative(ld.AR) for the Assessee submitted that the ITAT Pune Bench has already held that Interest Earned from Banks in case of co-operative credit society is eligible for deduction u/sec.80P(2)(a) of the Act. In these circumstances of the case, ld.AR submitted that penalty cannot be levied.



**Submission of ld.DR :**

3. Ld.Departmental Representative(ld.DR) for the Revenue submitted that since quantum addition has been set-aside penalty order may also kindly be set-aside.

**Findings & Analysis :**

4. We have heard both the parties and perused the records. Assessee is Co-operative Credit Society. Assessee had filed Return of Income and claimed deduction u/sec.80P of the Act. The Assessing Officer noted that assessee has received interest income from various banks. Therefore, Assessing Officer disallowed assessee's claim of deduction u/sec.80P of Rs.3,46,986/-.

4.1 The Assessing Officer levied penalty under section 271(1)(c) vide order dated 23.09.2022. The relevant paragraph of the penalty order is reproduced here as under :

*“05. From the Assessment Order u/s 147 r.w.s. 144 read with section 1448 of the IT Act, 1961, dated 24/03/2022, it is noticed that an addition of Rs.3,46,986/- was made to the total income of the assessee thereby disallowing the claim of the assessee u/s 80P(2)(d) of the Act. In the said assessment order, the claim of deduction u/s 80P(2)(d) of the Act was denied on the basis of exclusion by section u/s 80P(4) of the Act. Penalty proceedings u/s 271(1)(c) of the Act was initiated separately for furnishing inaccurate particulars of income as*



*explained in detail in Assessment Order u/s 147, r.ws. 144 read with section 1448 of the IT Act, 1961, dated 22/03/2022 in the case of assessee for AY 2014-15.*

*06. In spite of sufficient opportunities, the assessee has not furnished any explanation regarding penal proceedings initiated. The onus lies on the assessee to prove that he has not committed any default. But in this case, the assessee has not furnished any explanation for not levying of penalty u/s 271(1)(c) of the Act for furnishing inaccurate particulars of income to the extent of Rs 3,46,986/- in ITR for the AY 2014-15.*

*07. I am, therefore, satisfied that the assessee has furnished inaccurate particulars of income to the extent of Rs. 3,46,986/- and thereby committed default within the meaning of section 271(1)(c) of the IT Act, 1961, without any reasonable cause. In view of the above position, the assessee is liable to be penalized u/s. 271(1)(c) of the Income Tax Act, 1961. Considering the facts and circumstances of the case, minimum penalty, ie @ 100% of tax sought to be evaded works out to Rs 1,04,129/- (Rupees One Lakh four Thousand One Hundred Twenty nine only) is levied u/s. 271(1)(c) of the Income Tax Act, 1961.”*

4.2 Aggrieved by the penalty order, assessee filed an appeal before the Id.CIT(A). Ld.CIT(A) upheld the penalty order.

5. We have already reproduced the relevant paragraph of the penalty order. Assessing Officer has held that Assessee has furnished inaccurate particulars of income by means of claiming



deduction u/sec.80P of the Act. 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.

5.1 ITAT Pune Bench in various cases of Co-operative Credit Societies have held that interest earned from banks is eligible for deduction u/sec.80P(2)(a) of the Act. The Hon'ble Andhra Pradesh High Court in the case of **Vavveru Co-operative Rural Bank Ltd. [2017] 396 ITR 371** has held that interest earned on fixed deposits kept with banks by a Co-operative Credit Society is eligible for deduction u/s.80P(2)(a) of the Act.

5.2 Therefore, in these facts and circumstances of the case, once various judicial forums have held that interest earned by Co-operative Credit Societies from Banks is eligible for deduction u/sec.80P of the Act, the Assessing Officer cannot allege that assessee has furnished inaccurate particulars by claiming deduction u/sec.80P on the interest income.



5.3 The Hon'ble Supreme Court in the case of CIT *Vs.* Reliance Petro Products Pvt. Ltd., 322 ITR 158 (SC) has held as under :

*“Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the revenue, that by itself would not, in our opinion, attract the penalty under section 271(1)(c). If we accept the contention of the revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature.”*

5.4 Therefore, for all the reasons discussed above, respectfully following Hon'ble Supreme Court, we hold that penalty levied under section 271(1)(c) is not maintainable. Accordingly, we direct the Assessing Officer to delete the penalty levied under section 271(1)(c) of Rs.1,04,129/-. Accordingly, grounds of appeal raised by the assessee are allowed.

**ITA No.1328/PUN/2024 for A.Y.2015-16**

6. The facts for A.Y.2015-16 are almost identical to A.Y.2014-15. However, there is one small difference that for A.Y.2015-16, Assessee had filed Return of Income in response to notice u/sec.148 of the Act on 20.01.2022, declaring total income at Rs.NIL and claiming deduction u/sec.80P of the Act of Rs.6,67,882/-. The Assessing Officer has disallowed assessee's



claim of deduction u/sec.80P on two grounds. In the assessment order, in para 5 & 6, Assessing Officer disallowed assessee's claim of 80P of Rs.6,67,882/- as assessee has earned interest income of Rs.6,90,200/- from various banks, on which assessee had claimed decoction u/sec.80P of the Act. Assessing Officer invoked provision of section 80P(2)(d) of the Act to disallow Assessee's claim.

6.1 The second ground on which Assessing Officer has disallowed 80P is that assessee had not filed Return of Income under section 139(1) of the Act.

6.2 However, in the penalty order, the Assessing Officer has levied penalty under section 271(1)(c) of the Act only on the issue that interest earned from banks is not eligible for deduction. The relevant paragraph 5 and 6 of the penalty order is reproduced here as under :

*“05. From the Assessment Order u/s 147, r.w.s. 144 read with section 144B of the LT. Act, 1961, dated 22/03/2022, it is noticed that an addition of Rs 6,67,882/- was made to the total income of the assessee thereby disallowing the claim of the assessee u/s 80P(2)(d) of the Act. In the said assessment order, the claim of deduction u/s 80P(2)(d) of the Act was denied on the basis of exclusion by section u/s 80P(4) of the Act. Penalty proceedings u/s 271(1)(c) of the Act was*



*initiated separately for furnishing inaccurate particulars of income as explained in detail in Assessment Order u/s 147, r.w.s. 144 read with section 144B of the I.T. Act, 1961, dated 22/03/2022 in the case of assessee for AY 2015-16.*

*06. In spite of sufficient opportunities, the assessee has not furnished any explanation regarding penal proceedings initiated. The onus lies on the assessee to prove that he has not committed any default. But in this case, the assessee has not furnished any explanation for not levying penalty u/s 271(1)(c) of the Act for concealment of income to the extent of Rs 6,67,882/-in ITR for the A.Y.2015-16.”*

6.3 Thus, the issue of penalty under section 271(1)(c) in the case of assessee for A.Y.2015-16 is identical to A.Y.2014-15, therefore, the decision for A.Y.2014-15 shall apply *mutatis-mutandis* to this appeal also. Accordingly, grounds of appeal raised by the assessee are allowed.

7. To sum up, both appeals of the assessee are allowed.

Order pronounced in the open Court on 23<sup>rd</sup> December, 2024.

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

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

पुणे / Pune; दिनांक / Dated : 23<sup>rd</sup> 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, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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