

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'C' BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.5729/M/2024  
(Assessment Year :2017-18)  
&  
ITA No.5730/M/2024  
(Assessment Year :2018-19)**

Samarth Raghuv SahakariPatsanstha Ltd. 11/846, Krishna Sahara Niketan CHS., Jay Maharashtra Nagar Mahathane, Borivali East, Mumbai- 400056.	Vs.	Income-tax Officer, Ward 22(1)(2) Mumbai.
<b>PAN/GIR No.AAAAS8142A</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri Mahesh Pamnani (SR DR)
<b>Date of Hearing</b>	<b>19 / 12 / 2024</b>
<b>Date of Pronouncement</b>	<b>31 / 12 / 2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeals have been filed by the assessee against order dated 20/09/2024 and 26/09/2024, passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) for the A.Y.2017-18 & 2018-19 respectively.

2. In both the appeals common dispute raised by the assessee are as under:-

1. *The Ld. CIT (Appeals) has erred in confirming with the Ld. AO and considering the interest earned by the society from other co-operative societies/banks in due course of business as income from other sources and denying deduction u/s 80P(2)(a)(i) against the same.*
2. *Alternatively, the interest income earned from other co-operative societies/banks is eligible for deduction u/s 80P(2)(d), the Ld. AO had erred in not allowing the same to the society. The Ld. CIT(Appeals) has erred in confirming with the Assessing officer in not considering the society eligible for deduction u/s 80P(2)(d).*
3. *The appellant further reserves the right to add, amend or alter the aforesaid grounds of appeal as they may think fit by themselves or by their representatives.”*

3. The brief facts are that assessee is a co-operative credit society registered under the Maharashtra Co-operative Societies Act, 1960 carrying on business of accepting deposits and lending money to the members of the society. The society does not hold any license from Reserve Bank of India and therefore, cannot be classified as ‘co-operative bank’. Accordingly, assessee was eligible for claiming deduction u/s.80P(2)(a)(i). The assessee has filed its return of income declaring total income of Rs.1,43,97,970/- and the entire income was claimed as deduction u/s.80P(2)(a)(i). Assessee has also claimed deduction u/s. 80P (2)(d) of Rs.50,000/- from the interest received from co-operative banks. The ld. AO has disallowed the claim of deduction holding that assessee has claimed deduction against interest income from co-operative banks and after invoking provision of Section 80P(4), he held that Income Tax Act distinguishes the co-

operative banks from co-operative society which says that no deduction is to be allowed to co-operative banks u/s.80P. He further held that the interest income from co-operative bank is not business income and therefore, he is required to be taxed under the head 'income from other sources'; and as per the provision of Section 80P(2)(a)(i), the deduction shall be allowed on interest or dividend from investments with any co-operative society only and not from any co-operative bank. He further referred to the judgment of the Hon'ble Karnataka High Court in the case of PCIT vs. Totgars Co-operative Sale Society in ITA No.100066 of 2016 dated 16/06/2017 and accordingly, he disallowed the entire claim of deduction. The Id. CIT(A) too has confirmed the said claim of deduction.

4. We find that this issue stands covered by various decisions of this Tribunal. For the sake of ready reference, the decision of ITAT in the case of Nava Sandesh Sahakari Patsastha Maryadit vs. ITO, wherein the Tribunal held as under:-

*"4. Brief facts of the case shows that the assessee is a cooperative credit society accepting deposits and lending money to the members of the society. It is considered as a resource society. It does not hold any license from the reserve bank of India for carrying on the banking business. It filed its return of income at a total income of ₹6,227,736/- and claimed the entire income as deduction under section 80 (2) (a) (i) of the act. The case was selected for scrutiny and the claim of the assessee of deduction under section 80 P was examined. The learned assessing officer held that assessee is a cooperative bank and therefore deduction under section 80 P is not allowable in view of subsection 4 of the section. Further the assessee has earned interest from cooperative banks and other banks which are also not eligible for deduction. Accordingly,*

*the total deduction claimed by the assessee under section 80 P was denied and assessment order was passed on 14/12/2019 under section 143 (3) of the act determining total income of the assessee at 6,227,736/-.*

*5. Assessee preferred an appeal before the learned CITA wherein it was held that assessee is not a cooperative bank and therefore eligible to claim deduction under section 80 P (2) (a) (i) of the act. However the learned CIT - A directed the learned assessing officer that if there is any income which is different than the business income of the assessee, same shall be chargeable to tax under the head income from other sources. With respect to the deduction under section 80 P (2) (d) of the act the AO was directed to give the benefit of such interest if the interest is received from cooperative societies. However, if the interest is received from schedule banks that has to be excluded from the deduction under that subsection. Accordingly appeal of the assessee was partly allowed.*

*6. The assessee is aggrieved with that order and is in appeal before us.*

*7. We have heard the rival contentions and perused the orders of the learned lower authorities. Undisputedly the fact shows that assessee is a cooperative credit society wherein it is eligible for deduction under section 80 P (2) (a) (i) of its income arising from the business of providing credit facilities to its member, then whole of the amount of the profits and gains of such business are deductible under section 80 P (2) (a) (i) of the act. Further under section 80 P (2) (d) any income earned by a cooperative society by way of interest or dividend by the cooperative society from its investment with any other cooperative society, the whole of such income is required to be granted as deduction.*

*8. Undisputed fact shows that assessee is earning business income from business of providing credit facilities to its members. Therefore, whole of the business income is deductible u/s 80P (2) (a) (i) of the Act.*

*9. Further with respect to the interest income earned by the cooperative society from another cooperative banks which are necessarily cooperative societies in terms of the provisions of*

*section 2 (19) of the act. Therefore, interest earned by the assessee on its deposits with other cooperative banks, the assessee is eligible for deduction under section 80 P (2) (d) of the Act.*

*10. Assessee is also eligible for deduction to the extent of 50,000 in terms of provisions of section 80 P (2) (C) (ii) of the act.*

*11. On reading the order of the learned CIT(A) it is apparent that so far as the income from profits and gains from the specified activity, deduction is granted under section 80 P (2) (a) (i) of the act. With respect to the deduction under section 80 P (2) (d) only the deduction with respect to the interest received by the assessee from another cooperative bank which are cooperative society are granted. The learned CIT A has directed the learned assessing officer to examine the above fact and decide the issue. On careful consideration we find that all income of the assessee other than interest received from non-cooperative societies i.e., schedule banks or other banks which are not cooperative banks, is eligible for deduction under section 80 P (2) (a) (i) or (d) of the act.*

*12. Accordingly, both the grounds of appeal raised by the assessee are allowed.”*

5. Apart from that law is now well settled that any co-operative credit society is not holding banking license is eligible for deduction u/s. 80P(2)(d) in view of the Hon'ble **Supreme Court Judgment in the case of Citizen Co-operative Society Ltd. vs ACIT in Appeal No.10245 of 2017 dated 08/08/2017; and The Mavilayi Service Cooperative vs. Commissioner of Income Tax in Civil Appeal No.8315 of 2019 dated 12/01/2021.** Thus, we hold that assessee is eligible for claim of deduction u/s.80P(2)(a)(i) that all its income is from members and the reason given by the ld. AO that income / interest has been earned from

deposits made in the co-operative banks, therefore, same is not eligible for deduction u/s.80P. The same is also covered by the decision of ITAT Mumbai Bench in the case of Bharat Sanchar Nigam Employees Co-operative Credit Society Ltd., in ITA No.1293/Mum/2024 dated 29/08/2024. Accordingly, the grounds raised by the assessee are allowed for both the years.

**6. In the result, both the appeals of the assessee are allowed.**

Order pronounced on 31<sup>st</sup> December, 2024.

**Sd/-  
(GIRISH AGRAWAL)  
ACCOUNTANT MEMBER**

**Sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

Mumbai; Dated 31/12/2024  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt.Registrar)  
**ITAT, Mumbai**