



।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.2449/PUN/2024

निर्धारण वर्ष / Assessment Year: 2020-21

Abhinandan Gramin Bigar Sheti SAhakari Patsanstha Maryadit Kumbhoj, Near Grampanchayat Main Road, Tal-Hatkanagale, Dist-Kolhapur, Maharashtra – 416111. PAN: AABAA7101Q	V s	The Income Tax Officer, Ichalkaranji.
Appellant/ Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Shri Ratnakar Shelake – Addl.CIT(DR)
Date of hearing	30/12/2024
Date of pronouncement	31/12/2024

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] passed under
section 250 of the Income-tax Act, 1961 for Assessment Year
2020-21; dated 25.09.2024. The Assessee has raised the following
grounds of appeal :



“1. On the facts and circumstances of the case and in law the CIT(A), NFAC erred in confirming the action of the Assessing Officer of denying its claim for deduction u/s.80P(2)(a)(i) and/or u/s.80P(2)(d) in respect of interest received by it from various banks.

The appellant craves leave to add to, amend, alter delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”

Submission of Id.AR:

2. At the outset of hearing, no one appeared on behalf of the assessee. No adjournment letter was filed. However, assessee has filed statement of facts which is reproduced here as under :

“a. The assessee society is a registered co-operative credit society under the Maharashtra State Co-operative Societies Act, 1960. The society makes investment to maintain the Statutory Liquidity Ratio (SLR) in the prescribed modes which include deposit with banks.

b. The Society is governed by its bye-laws as well as rules and regulations as per the Maharashtra State Co-operative Societies Act, 1960. The assessee society in order to maintain the required SLR is legally bound to invest funds in Maharashtra State Bank, District Co-operative Bank and the Other Co-operative Banks who have audit class "A" in the last preceding 3 years. Copies of Bye laws page number 22 and 23 are attached, where in investment rules are highlighted. (Copy of Page No. 22 and 23 are attached).

c. Further copy of the Government Notification (Department of Co-operation) is also enclosed in this respect.

d. Thus the income from interest on investment with banks is income from regular business activity and hence is eligible for deduction u/s 80P(2)(a)(i).

e. Rather the jurisdictional Pune ITAT in the case 'Niphad Nagari Sahakari Patsanstha Ltd.' has held that such interest is taxable under the head income from Business or profession and is eligible for deduction u/s 80P(2)(a)(i).



In the cited case, the society had actually received interest from other than co-operative societies. Still the society was held to be eligible for deduction u/s 80P(2)(a)(i) in this respect.

Further, in our case the main contention is for deduction u/s 80P(2)(a)(i). Our alternate submission is for deduction u/s 80P(2)(d).”

Submission of Id.DR:

3. The Id.DR for the Revenue relied on the order of AO and Id.CIT(A).

Findings & Analysis :

4. We have heard Id.DR for the Revenue and perused the records. It is observed that assessee is a Co-operative Society filed its return of income for A.Y.2020-21 on 01.01.2021 declaring taxable income at Rs.NIL, after claiming deduction u/sec.80P(2)(a)(i) of the Act amounting to Rs.48,49,669/- for A.Y.2020-21.

4.1 The Assessing Officer in the assessment order at para 6.1 held as under :

“6.1 The assessee society has made investment in various co-operative banks and “earned interest” of Rs.38,81,431/-. The “interest income” earned on investment/Deposits with various co-operative banks totaling to Rs.38,81,431/- claimed u/s 80P(2)(a)(i) of the Act is disallowed and treated as “Income from Other Sources” and added to the total income and tax accordingly.”



4.2 Thus, Assessing Officer held that interest earned by assessee is taxable as income from other sources. Aggrieved by assessment order, assessee filed appeal before the Id.CIT(A).

4.2.1 Assessee relied on following decisions as under :

- *Vegetable Products Ltd.,*
- *ITAT Pune Decision in Sant Motiram Society*
- *ITAT Pune Decision in Niphad Nagari Sahakari Pastsanstha Ltd.,*

4.3 This issue has been dealt in various decision of ITAT Pune in favour of assessee.

5. 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.

5.1 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.

5.2 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.



6. 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

6.1 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.

7. 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.38,81,431/-. Accordingly, the only Ground raised by the Assessee is allowed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 31st December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 31st 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.