

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

Before Sh. Satbeer Singh Godara, Judicial Member

ITA No. 4708/Del/2024 : Asstt. Year: 2020-21

Seohara Co-operative Cane Development Union Ltd., 34-Station Road, Seohara, Bijnor, Uttar Pradesh-246746	Vs	Income Tax Officer, Ward-3(1), Nazibabad
(APPELLANT)		(RESPONDENT)
PAN No. AABAS4970K		

Assessee by : Ms. Akansha, CA

Revenue by : Sh. Sanjay Kumar, Sr. DR

Date of Hearing: 06.01.2025

Date of Pronouncement: 06.01.2025

ORDER

This assessee's appeal for Assessment Year 2020-21, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2024-25/1067174118(1) dated 31.07.2024, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.

2. It emerges at the outset that both the learned lower authorities have rejected the assessee's claim of section 80P deduction amounting to Rs.10,32,457/- as not having been "derived" from a co-operative society thereby quoting Totagars Cooperative Sales Society Ltd. vs. ITO (2010) 188 taxmann.com 282 (SC).

3. I have given my thoughtful consideration to the vehement rival stands against and in support of the impugned disallowance and see no reason to sustain the same. The assessee's impugned income of Rs.10,32,457/- admittedly represents its interest derived from investment of surplus funds in co-operative/nationalized bank as the case may be which has already been eligible for deduction u/s 80P in ITO Vs. Shri Bhairavnath Multistate Cooperative Credit Society Ltd. (2024) 164 taxmann.com 382 (Pune) 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/societies, 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 Limited Vs. ITO in ITA No.1700/PUN/2017 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 vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 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. Vs. 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 Vs. 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."

4. I accordingly accept the assessee's instant sole substantive ground in very terms before parting. Ordered accordingly.

5. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 06/01/2025.

Sd/-

(Satbeer Singh Godara)
Judicial Member

Dated: 06/01/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR