

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.892/SRT/2024

Assessment Year: (2017-18)

(Physical Hearing)

Shramdeep Urban Co-operative Credit Society Limited, 11-12, Harekrushna Shopping Complex, Varachha Road, Varachha, Surat - 395006	Vs.	The ACIT, Circle -3(3), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAAAS3229C		
(Appellant)		(Respondent)

Appellant by	Shri Rushi Parekh, AR
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	30/12/2024
Date of Pronouncement	03/02/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 25.06.2024 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the assessee are as under:

"1. That the CIT(A) erred in confirming the disallowance of deduction u/s 80P(2)(d)(i) of Rs.2,95,564/- being identical income of locker rent received by providing locker facility to member only and holding the same to be not income from business of banking as the assessee society is not holding banking license to operate locker.

2. Alternative, CIT(A) could have granted the deduction of expenses of Rs.2,63,118/- claimed against the locker rent income of Rs.2,95,564/-.

3. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of Appeal.”

3. Brief facts of the case are that the assessee had filed its return for AY.2017-18 on 05.10.2017, declaring total income of Rs. Nil. The case was selected for complete scrutiny under CASS for the reasons (i) high value receipt of cash shown from third parties in response data and (ii) large deduction under Chapter VI-A from total income. The assessee did not furnish any replies. The assessee-society was engaged in the business of providing various credit facilities to its members. The assessee had claimed deduction of Rs.3,53,47,918/- u/s 80P of the Act out of the total income earned after deducting related expenditure. The assessee-society had also earned in fixed deposit with the Surat District Co-operative Bank Ltd. and earned interest of Rs.33,33,068/- and dividend of Rs.7,710/-. It has claimed Rs.19,31,529/- as deduction u/s 80P(2)(d) after deduction related expenses and overheads. The assessee also earned Rs.2,95,564/- by providing locker facility and claimed deduction of Rs.32,446/- u/s 80P(2)(a) of the Act, which was not related to the activity of providing credit facilities to its members. The AO reproduced the comparative analysis regarding Co-operative society and Co-operative bank, which it at pages 7 to 12 of the assessment order. The AO relied on the decision in case of ACIT vs. Buldana Urban Co-op. Credit Society Ltd. (ITAT – Nagpur) wherein it was held that providing locker facility is not included in the activity of providing credit facilities to the members. The assessee-society was not engaged in the business of banking but was engaged in providing credit facilities to its members, which does not include providing locker facility. The

income earned Rs.2,95,564/- cannot be allowed as deduction u/s 80P(2)(a)(i) of the Act and the same was added to the total income of the assessee.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The CIT(A) observed that the appellant-society is a co-operative society and it is not at all having banking license and, therefore, renting out of locker cannot be termed as income earned from banking activities u/s 80P(2)(a)(i) of the Act. In absence of banking license, the appellant cannot be assumed to carry out banking functions of renting out a locker. However, the appellant was eligible for deduction of Rs.50,000/- u/s 80P(2)(c) of the Act. The CIT(A) directed to AO to recompute the total income of the appellant after allowing deduction u/s 80P(2)(c) of the Act. The CIT(A) partly allowed the appeal of the assessee.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorised Representative (Id. AR) of the assessee submitted paper book, which includes submission before CIT(A), ITR, Computation and tax audit report for AY.2017-18, section 80P deduction working chart, depreciation and salary expenses. The Id. AR submitted that the activity of providing locker facility to member was part of Bye-law and incidental to the main activity of providing credit facility to members only and there were no requirement to obtain banking license to operate locker. Also section 80P(2)(a)(i) provides two types of activities in which the co-operative society must be engaged to be eligible for deduction under sub-clause (i). These two activities are not alternate ones because the section allows deduction to the cooperative

society on the whole of profits and gains of business attributable to any one or more of such activities. This pre-supposes that eligible co-operative society can carry on either one of these two businesses or can carry both these businesses for the members. If the assessee co-operative society carries on one or both of the activities, it will be eligible for deduction. These two activities are as under: (a) co-operative society engaged in carrying on business of banking facilities to its members or (b) co-operative society engaged in providing credit facilities to its members. Both the activities can be carried on by the co-operative society for its members. Therefore, where a co-operative society is engaged in carrying on business of banking facilities or providing credit facilities to its members or the income which relates to the business of banking facilities to its members or providing credit facilities to its members will be eligible for deduction u/s 80P(2)(a)(i). The CIT(A) vide para 6.13 discussed this issue and stated that the contention of the appellant was not found to be acceptable as the assessee is cooperative credit society but does not have banking license and therefor renting out locker facility cannot be termed as income earned from banking activities u/s- 80P(2)(a)(i). However, CIT(A) has not considered the alternative claim of expenditure of Rs.2,63,117/- which were genuinely incurred and attributed against income from providing locker facility to members only. The Id. AR submitted that Rs.2,95,564/- may be allowed, being income from locker facility to member as incidental income to providing credit facility to members and eligible for claim of deduction u/s 80P(2)(a)(i). Alternatively, expenses claim of

Rs.2,63,117/- may be allowed or the same may kindly be set aside to AO for limited verification purpose and may be allowed against locker rent income.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities. He submitted that assessee is not having any banking license. It is only a co-operative credit society. Locker rent cannot be attributable to the business of providing credit facilities to the members of the society. Hence, he requested to confirm the order of CIT(A).

7. We have heard both the parties and perused the materials available on record. We find that the assessee is a co-operative credit society and not a co-operative bank. Provision of safe deposit vaults is part of the ordinary banking business of a bank and income derived from hiring of lockers is income from banking business and deductible u/s 80P(2)(a)(i) of the Act. However, urban co-operative credit society like the assessee are not banks and the primary business of such credit society is to grant credit facilities to its members. The Id. AR submitted that providing locker facility is an incidental activity which was approved by the Bye-law of the society. However, copy of such Bye-law has not been furnished. Therefore, we do not find any infirmity in the order of CIT(A) and uphold the decision of CIT(A) not to allow deduction u/s 80P(2)(a)(i) of the Act in respect of the locker rent of Rs.2,95,564/-.

7.1 The Id. AR of the assessee has requested to consider the alternative claim of expenditure of Rs.2,63,117/-. He submitted a working of deduction u/s 80P,

which is at page 48 of the paper book. He has also allocated salary of Rs.1,56,800/- towards safe deposit vault, which is at page 50 of the paper book. He submitted that the expenditure of Rs.2,63,118/- was incurred for the operation of locker facility and includes (i) depreciation on safe deposit vault of Rs.12,024/-, (ii) salary of locker operator of Rs.1,56,800/-, (iii) interest expense and other administrative expenses on proportionate basis of Rs.93,181/- and Rs.1,112/- respectively. In our considered opinion, only the net income can be disallowed and not the gross locker rent. The AO is, therefore, directed to verify the claim of the assessee regarding expenditure of Rs.2,63,117/- incurred for the purpose of the locker facility and allow the claim accordingly. The ground is partly allowed.

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

Order is pronounced in the open court on 03/02/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 03/02/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat