

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER

ITA.Nos.528, 529, 530 & 531/NAG./2024
Assessment Years 2013-2014, 2014-2015, 2016-2017 & 2020-2021

Panjabrao Deshmukh Nagari Sahakaripat Sanstha Maryadit, Sheet No.9B, Stedium Road, BULDANA – 443 001. Maharashtra. PAN AAAAP6015H	vs.	The Income Tax Officer, Ward-2, KHAMGAON. PIN – 444 303. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri K.P. Dewani, Advocate
For Revenue :	Shri Abhay Y. Marathe, Sr DR

Date of Hearing :	21.01.2025
Date of Pronouncement :	10.02.2025

ORDER

PER V. DURGA RAO, J.M. :

These appeals are filed by the Assessee against the respective orders of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC”], Delhi, relating to assessment years 2013-2014, 2014-2015, 2016-2017 and 2020-2021. Since common issues are involved in these appeals, these appeals were heard together and are being

disposed of by this single consolidated order for the sake of convenience and brevity.

2. Facts of the case, in brief, are that the assessee is a cooperative society registered under Maharashtra Co-operative Society Act, 1960 and engaged in the business of providing credit facilities to its members. The assessee society has granted loan to members and derived interest therefrom and thus has earned income by providing credit facilities to its members. The assessee society has accepted deposit and granted loan only to its members, the requisition condition for grant of deduction and eligible for deduction u/sec.80P of the Act.

3. The case of the assessee society was selected for scrutiny and the Assessing Officer reopened the case of assessee society u/sec.147 of the Act on the ground that the assessee has deposited cash of Rs.2,71,20,000/-; Rs.2,00,64,374/- and Rs.1,98,90,000/- in its bank account for the assessment years 2013-2014, 2014-2015 and 2016-2017, respectively. After following the due procedure, the Assessing Officer assessed the total deposits shown above

as the unexplained investment of the assessee u/sec.69 of the Act vide order dated 09.03.2022, 16.03.2022 and 07.03.2022, for the assessment years 2013-2014, 2014-2015 and 2016-2017, respectively and passed orders u/sec.147 r.w.s.144 r.w.s.144B of the Act.

4. Aggrieved by the orders of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A) and the learned CIT(A) confirmed the additions made by the Assessing Officer.

5. During the course of hearing, Learned Counsel for the Assessee, submitted that on identical facts and circumstances in the case of assessee for the assessment years 2015-16, 2017-18 and 2018-19 re-assessment proceedings were initiated for cash deposited in the regular bank account of assessee with Khamgaon Urban Co-operative Bank Ltd., and on production of books of accounts of regular bank account of assessee, the Assessing Officer has found no fault in financial statements, books of account and income of assessee is not exigible to tax considering provisions of sec.80P of the Act. He, therefore, submitted

that the matter in issue may please be remit back to the file jurisdictional Assessing Officer for verification in the interest of justice.

6. The Learned DR on the other hand relied on the orders of the authorities below. He submitted that since the assessee did not file it's return of income and nor furnished any reply to the statutory notices and in absence of any documentary evidence to substantiate it's claim, the Assessing Officer rightly made the impugned additions in the hands of the assessee for the assessment years 2013-14, 2014-15 and 2016-17 and since the same position continued even during appellate proceedings, the learned CIT(A) confirmed the additions made in the hands of the assessee for the above assessment years. He submitted that the instant issue does not deserve to remit back to the file of Assessing Officer either for verification or examination. He, therefore, pleaded that the order of the learned CIT(A) be confirmed.

7. We have heard the rival submissions of both the parties and perused the material on record. *Prima facie*, we find force in the arguments advanced by the assessee. The Learned Counsel for the Assessee drew the attention of the Bench that for the assessment year 2015-16, 2017-18 and 2018-19, the Assessing Officer initiated re-assessment proceedings for cash deposited in the regular bank account of assessee with Khamgaon Urban Co-operative Bank Ltd., and on production of books of accounts of regular bank account of assessee, the Assessing Officer has found no fault in financial statements, books of account and income of assessee. We find that the assessee is a society which maintains balance-sheet and regular books of accounts etc., we deem it fit and appropriate to restore the matter in issue in the instant appeals for the assessment years 2013-2014, 2014-2015 and 2016-2017 back to the file of jurisdictional Assessing Officer for his afresh verification, examination and adjudication of the matter in issue, by providing adequate opportunity of being heard to the assessee. Accordingly, the grounds of appeal raised by the assessee

for these assessment years 2013-2014, 2014-2015 and 2016-2017 are allowed.

8. In the result, ITA.Nos.528, 529 and 530/NAG./2024 are allowed.

9. Now coming to the assessee's appeal ITA.No.531/NAG./2024 for the assessment year 2020-2021. For this impugned assessment year 2020-2021 the assessee had filed its return of income declaring income at Rs.NIL by claiming deduction u/sec.80P of the Act at Rs.29,45,904/-. The case of the assessee selected for scrutiny under CASS. The Assessing Officer issued various statutory notices u/sec.143(2), 142(1) and show cause notice dated 23.02.2022 also calling the assessee to furnish its explanation, documents etc., In absence of documentary evidence in support of deduction claimed u/sec.80P of the Act with respect to the incomes earned and expenses incurred towards its activities, the Assessing Officer made addition of Rs.29,45,904/- by rejecting the assessee's total claim of sec.80P of the Act.

10. On being aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A). Before the learned CIT(A) the assessee has furnished (i) copy of Sanstha Registration Certificate, (ii) Copy of balance-sheet for F.Y. 2019-20 (iii) Copy of P & L A/c for F.Y. 2019-20 (iv) Copy of acknowledgment of ITR along with computation of income and (v) Copy of by laws of the assessee society. The learned CIT(A) noted that since the above documents are in vernacular language and no English translation has been filed and since these documents are not filed before the Assessing Officer during the assessment proceedings, after considering the various case laws relied on by the assessee, the learned CIT(A) noted that the in absence of documentary evidence on the part of assessee society to justify it's business activities and failure to establish that the activities carried-out by it, which make it eligible for claiming deduction u/sec.80P(2)(a)(i) of the Act and accordingly, dismissed the grounds of the assessee.

11. Aggrieved by the order of the learned CIT(A), the assessee carried the matter in appeal before the Tribunal.

12. During the course of hearing, Learned Counsel for the Assessee submitted that in the case of assessee society, the Assessing Officer has allowed sec.80P deduction for the assessment years 2015-2016, 2017-18, 2018-19, 2020-21, 2020-21 and 2022-23 which are placed on record. He also relied on the decision of Coordinate Bench of Nagpur Tribunal which is placed on record in the case of Bhagyashri Nagri Sahakari Pat Sanstha Maryadit in ITA.No.374/NAG./2023 vide order dated 18.09.2024, the assessee was granted relief. He, accordingly, submitted that the assessee is entitled to get relief u/sec.80P of the Act and prayed that the grounds of assessee be allowed in the interest of justice.

13. The Learned DR, on the other hand, strongly relied on the orders of the authorities below. He submitted that since the assessee failed to justify its business activities and failed to establish that the activities carried-out by it, the learned CIT(A) has rightly confirmed the order

of the Assessing Officer. He pleaded that the order of the learned CIT(A) be confirmed.

14. We have heard arguments advanced by both the parties and perused the material on record. We find that the instant is covered by the decision of Coordinate Bench of Nagpur Tribunal in the case of Bhagyashri Nagri Sahakari Pat Sanstha Maryadit (supra), wherein it has been held that *“the interest from Co-operative Banks in respect of the amount received from the Members of Co-operative Society is assessable under the Head “Income from Business” and not under the Head “Income from other sources” and following the decision of The Ismailia Urban Co-operative Society vs. ITO in ITA.No.122/Nag./2023, dated 18.06.2024, held that assessee is eligible to claim deduction u/sec.80P(2)(a)(i) of the Act”*. In absence of any contrary material brought to the notice of the Bench by the Learned DR, we hold that the assessee is entitled to claim deduction u/sec.80P of the Act. Accordingly, the grounds raised by the assessee for the assessment year 2020-2021 are allowed.

15. In the result, ITA.No.531/NAG./2024 is allowed.

16. To sum-up, ITA.Nos.528, 529 & 530/NAG./2024 of the assessee are allowed for statistical purposes and ITA.No.531/NAG./2024 of the assessee is allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 10.02.2025.

Sd/-
(KHETTRA MOHAN ROY)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 10TH February, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A)-2, Nagpur concerned.
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

//True Copy//

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.