

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, AM

ITA Nos. 862 & 863/KOL/2023

(Assessment Years: 2018-19 & 2020-21)

**Dahadaya Samabay Krishi
Unnayan Samity Ltd.**
Dahadaa, Alankarpur, Block-
Ramnagar, Purba Medinipur,
Purba Medinipur-721441,
West Bengal

(Appellant)

Vs.

ITO, Ward 27(1), Haldia
ITO, Dubey House, 2nd Floor,
Basudebpur, Thlpukur,
Khanjan, Chalk, Purba
Medinipur, Haldia,
Purba Medinipur-721602,
West Bengal

(Respondent)

PAN No. AABAD0206B

Assessee by : Shri Miraj D. Shah, AR
Revenue by : Shri Manas Mondal, CIT DR

Date of hearing: 10.02.2025
Date of pronouncement : 24.02.2025

ORDER

Per Rajesh Kumar, AM:

These are the appeals preferred by the assessee against the orders of the National Faceless Appeal Centre, Delhi [the learned CIT (A)], (hereinafter referred to as the "Ld. CIT(A)") dated 19.06.2023 for the AYs 2018-19 & 2020-21.

862/KOL/2023 or A.Y. 2018-19

02. The only issue raised by the assessee is against the order of Id. CIT (A) confirming the denial of deduction u/s 80P of the Act in respect of interest of ₹5,22,601/- earned from nationalized banks, thereby holding that interest received from the schedule bank is not eligible for deduction u/s 80P of the Act.



03. The facts in brief are that the assessee is a primary agricultural credit co-operative society engaged in the business of banking or providing credit facilities to its members besides doing purchase of seeds, fertilizers, pesticides intended for agriculture operation for supplying to its members. During the year, the assessee has filed the return of income on 27.09.2018 by declaring total income at ₹nil after claiming exempt income of ₹75,75,191/- u/s 80P(2)(a)(i) of the Act. The case of the assessee was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS) and statutory notices along with questionnaire were duly issued and served upon the assessee. During the instant financial year, the assessee has received interest from nationalized banks to the tune of Rs.5,22,601/-. According to the Id. AO, the interest received by the assessee society from investments with the banks could not be taken as income from its business activities by providing credit facilities to its members and therefore, held that the deduction u/s 80P2(a)(i) is not available and accordingly added the same to the income of the assessee by relying on the decision of Hon'ble Apex Court in the case of Totgars Co-operative Sale Society Ltd. Vs. ITO [2010] 322 ITR 283 (SC) dated 08.02.2010.
04. In the appellate proceedings, the Id. CIT (A) dismissed the appeal of the assessee by holding that the assessee neither entitled to deduction u/s 80P(2)(d) nor u/s 80P(2)(a)(i) of the Act in respect of interest earned on investments with banks and from Government securities. The Id. CIT (A) held that in the present case, the interest was received by the assessee society from investments with the nationalized banks and not from the investments with the co-operative banks and therefore, deduction u/s 80P(2)(d) was not available. The Id. CIT (A) further observed that the interest earned from investments in nationalized banks was not an income from the business activities



of the assessee's society and thus was not covered under Provisions of Section 80P(2)(a)(i) of the Act.

05. After hearing the rival contentions and perusing the materials available on record, I find that the assessee is primarily agricultural credit co-operative society engaged in providing credit facility to its members and also engaged in purchase of seeds, fertilizers, pesticides for agricultural operations for its members. I observe from the balance sheet of the assessee, a copy of which is available at page no.3 of the Paper Book, which contain the information as to the various resources available with the society. I note that the assessee has paid up share capital of ₹49.49 lacs while reserve and other funds were 198.37 lacs, Grants , other funds ₹88.69 lacs and deposits were and 42.20 crores. I also note that the assessee is required to comply with the stipulations and conditions under the Co-operative Act and keep part of its funds with the banks and government securities. I note that the assessee's total investments out of these funds were ₹20.22 crores. In our opinion, these are the investments as per section 64 read with section 63 of the Multi State Co-operative Society Act, 2022, out of the surplus funds and therefore has to be treated as income of the assessee from business activities. The case of the assessee find support from the decision of the co-ordinate Bench in the case of M/s Bishpur Rowtara Primary Agricultural Co-operative Credit Society Ltd. Vs. ITO in ITA No. 579/KOL/2022 for A.Y. 2018-19, wherein the co-ordinate Bench has held as under:-

"7. After hearing the rival contentions and perusing the material on record, we find merit in the three fold submissions made by the assessee as discussed hereinabove. Accordingly we deem it fit and proper to restore this issue to the file of the AO to decide these issues in terms of our following directions:

i) interest from saving accounts should be allowed u/s 80P in terms of decision of Hon'ble Calcutta High Court in the case of CIT vs. South Eastern Railway



Employees Co-op Credit Society Ltd. in [2017] 390 ITR 524 (Cal), ii) if interest income on investments with banks is to be treated as income from other sources then the corresponding expenses may be determined deduction may be allowed in terms of Coordinate Bench decision in the case of M/s Panditpur Samabay Krishi Unnayan Samity Ltd. vs. ITO in ITA NO. 04/Kol/2022 dated 5.4.2022 and iii) the interest income from investments as per Section 64 read with Section 63 of the Multi State Co-operative Societies Act, 2022 out of surplus funds is to be treated as business income in terms of the Co-ordinate Bench decision in the case of Rabindra Bharati University Co-operative Credit Society Ltd. vs. ITO in ITA Nos. 584 & 585/Kol/2021 dated 11.11.2022. Accordingly, we direct the AO to frame the assessment in terms of aforesaid directions after affording a reasonable opportunity of hearing to the assessee."

06. Accordingly, I restore the issue to the file of the Id. AO with following direction;

- i. To treat the interest from savings accounts in terms of decision of Jurisdictional High Court in case of CIT vs. South Eastern Railway Employees Co-op Credit Society Ltd. (*supra*).
- ii. If the interest income on investments with nationalized banks is to be treated as income from other sources, then corresponding expenses may be determined and allowed in terms of decision of M/s Panditpur Samabay Krishi Unnayan Samity Ltd. vs. ITO (*supra*).
- iii. Interest from investments is to be treated as business income if made as per section 65 read with section 63 of the Multi State Co-operative Societies Act, 2022, in terms of decision of Rabindra Bharati University Co-operative Credit Society Ltd. vs. ITO (*supra*).

07. Accordingly, with above observations, we restore the issue to the file of the Id. AO with a direction to decide the same in terms of the above directions after affording reasonable opportunity of hearing to the assessee.

**863/KOL/2023 or A.Y. 2020-21**

08. The issue raised in this appeal is similar to one as decided by us in ITA No. 862/KOL/2023 A.Y. 2018-19. Accordingly, our decision would apply mutatis mutandis to this appeal of assessee in ITA No.863/KOL/2023 as well. Hence, the appeal of assessee in ITA No. 863/KOL/2023 for A.Y. 2020-21 is allowed for statistical purpose.
09. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 24.02.2025.

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 24.02.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata