

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos. 2447/PUN/2024
निर्धारण वर्ष / Assessment Year: 2018-19

Shri Amardevi Nagari Sahakari Patsanstha, Shelarwadi, Post Dehu Road, Tal – Haveli, 412101 PAN : AABAS5274L	Vs.	ITO, Ward – 9(3), Pune
अपीलार्थी /Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Nitin Rander (through virtual)
Department by :	Shri Ramnath P. Murkunde,
Date of hearing :	24-02-2025
Date of Pronouncement :	28-02-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 26.09.2024 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**"CIT(A)"**] pertaining to Assessment Year (**"AY"**) 2018-19.

2. Briefly stated the facts are that the assessee is a Co-Operative Society registered under the Maharashtra State Co-operative Society Act, 1960. It is engaged in the business of accepting deposits from members and providing credit facilities to its members. For AY 2018-19, the assessee filed its return on 29.09.2018 declaring total income of Rs.NIL after claiming deduction of Rs.29,05,409/- under the provisions of sections 80P(2) of the Income Tax Act, 1961 (**the "Act"**). During the assessment proceedings, the Ld. Assessing Officer (**"AO"**) found that the assessee has earned interest income from investments in Co-operative Banks amounting to Rs. 82,64,123/-. The Ld. AO disallowed the deduction claimed by the assessee u/s. 80P(2)(a)(i)/ 80P(2)(d) of the Act observing that the interest income earned by the assessee from investments/ FD's with Co-operative Banks is 'not attributable' to the business activities of providing credit facilities to its members and treated the same as 'o income from other sources' under the provision of section 56 of the Act. He

therefore completed the assessment vide his order dated 19.04.2021 passed u/s.143(3) of the by making an addition of Rs.82,64,123/-, to the NIL income returned by the assessee.

3. Aggrieved, the assessee filed appeal before the Ld. CIT(A) who confirmed the addition made by the Ld. AO by observing as under:

“6.1.3. I have carefully gone through the assessment order, submission of the appellant and the case laws relied upon by the appellant and the AO. It is a fact that the appellant society was a co-operative engaged in the business of providing credit facilities to its members the fact already admitted by AO in his order.

The appellant has claimed deduction u/s 80P on this interest relying on various judgments. However, the issue of allow ability of deduction on interest earned from bank is now settled by The Totgars Co-operative Sale Society Ltd. Vs. ITO 322 ITR 283 (SC), that deduction on interest earned from deposits is not allowed. Also, the issue of allow ability of deduction on interest earned from deposit with co-operative society is also settled in view of decision of Hon'ble Karnataka High Court. CIT, Hubballi vs. Totgars Co-operative Sale Society Lts. (ITA No. 100066 of 2016) dated 16-06-2017. In that judgement Hon'ble court held that deduction u/s 80P(2)(d) is not allowed on interest earned from deposit with other co-op society. Thus, respectfully following above judgement of Hon'ble Supreme Court & Karnataka High Court the deduction u/s 80P is not allowed on interest earned from deposit with nationalized bank & Co-operative banks.”

3.1. The Ld. CIT(A) further observed that there is a mistake in computation of income and the correct amount of deduction claimed u/s. 80P should be Rs. 29,44,398/- and not Rs.29,05,409/- claimed in the return of income filed by the assessee.

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following solitary ground of appeal:

“1. On the facts and in the circumstances of the case and in law, Ld. Assessing Officer and Ld. CIT(A) have erred in disallowing a sum of Rs.29,44,398/- for interest income earned out of fixed deposits/investments with other co-operative societies and which is eligible for deduction u/s 80P(2)(d) or 80P(2)(a)(i) of the Act.”

5. The Ld. AR submitted that during the relevant A.Y. the assessee has earned interest income from deposits made with Co-operative banks which fact is undisputed. He contended that the interest income earned by the assessee is part of its business activities and hence fall within the scope of section 80P(2)(a)(i) of the Act. He also submitted that the said interest income earned by the assessee is also entitled for claim of deduction u/s. 80P(2)(d) of the Act for the reason that Co-operative bank is also a *specie* of cooperative society and

therefore the assessee has validly claimed deduction under the provisions of section 80P(2)(a)(i)/ 80P(2) (d)of the Act.

5.1 The Ld. AR submitted that the impugned issue is covered in favour of the assessee by various decisions of the co-ordinate bench of the Tribunal and placed relied on the following decisions in support thereof:

- (i) Talegaon Nagari Sahakari Patsanstha Ltd. Vs. ITO, Pune (ITA No. 743/PUN/2024 dtd. 03.06.2024)
- (ii) P. P. Pandurang Gramin Bigarsheti Sahakari Patsanstha Maryadit vs. AU, Delhi (ITA No.854/PUN/2024 dtd. 26.06.2024)
- (iii) ITO, Pandarpur vs. Dhanshree Mahila Gramin Bigarsheti Sahakari Pat Sanstha Ltd. (ITA No.853/PUN/2024 dtd. 31.07.2024)”

5.2 The Ld. AR also submitted that the impugned issue has been decided in favour of the assessee by the Co-ordinate Bench of the Tribunal in assessee’s own case for the previous AY 2017- 18, a copy of which was placed on record before us.

6. The Ld. DR supported the order of the Ld. CIT(A)/ AO.

7. We have heard the Ld. representatives of the parties and the perused the material available the on record as well as various judicial precedents cited by the Ld. AR. The facts are not in dispute. During the relevant AY, the assessee has earned interest income from investments in four co-operative banks, namely: (i) The Sarasvat Co-operative Bank Limited, (ii) PavanaSahkari Bank Limited, (iii) TJSB Sahkari Bank Limited and (iv) Pune district Central Bank Limited. We tend to agree with the arguments put forth by the Ld. AR as we observe that the impugned issue is no more *res-integra* in the light of the various decisions of the co-ordinate bench of the Tribunal as well as other judicial forums as well. The Ld. AR brought to our notice that the impugned issue is also covered in favour of the assessee in its own case for AY 2017-18. We have perused the order of the Pune Tribunal in ITA No. 1139/PUN/2024 dtd. 13.08.2024 fro AY 2017-18. The relevant observation and finding of the Tribunal in the said appeal is reproduced below:

“8. In the present case, I find that admittedly the interest income was earned from various cooperative banks. On perusal of provisions of section 80P(2)(d), it is clear that the income derived by a cooperative society from its investment held with other cooperative societies shall be exempt from the total income of a cooperative society. Therefore, what is relevant for claiming of deduction u/s 80P(2)(d) is that interest income should have been derived from the investment made by the assessee cooperative society with any other cooperative society. This issue was considered by

the Hon'ble Karnataka High Court in the case of CIT vs. Totagars Cooperative Sale Society. 392 ITR 74 (Karn) wherein the Hon'ble High Court after referring to the decision of the Hon'ble Supreme Court in the case of Totgar's Co-operative Sale Society Ltd.Vs. ITO (2010) 322 ITR 283(SC) held that the ratio of decision of the Hon'ble Supreme Court is not to be applicable in respect of interest income on investment as same falls under the provisions of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. In the light of this discussion, I am of the considered opinion that the interest income earned by cooperative society on deposits made out of surplus funds with cooperative banks qualifies for deduction under the provisions of section 80P(2)(d) of the Act. Therefore, the solitary ground raised by the appellant stands allowed."

8. Respectfully following the decision of the Tribunal (supra) and in the absence of any contrary material brought on record by the Revenue to enable us to take a different view, we set aside the order of the Ld. CIT(A). Accordingly, the solitary ground raised by the assessee is allowed.

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

Order pronounced in the open court on 28th February, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 28th February, 2025.

Ashwini

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठनिजीसचिव / Sr. Private Secretary
आयकरअपीलीयअधिकरण ,पुणे/ ITAT, Pune