

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD**

BEFORE MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER

**ITA No. 1470/Ahd/2024
Assessment Year: 2016-17**

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| The Thasra Nagrik Co. Op. Credit Society Limited, Above Kishan Bhavan, Tower Road, Thasra, Gujarat-388 250 [PAN - AAAAT 8344 F] | Vs. | The Income Tax Officer, Ward-3, Nadiad |
| (Appellant) | ... | (Respondent) |
| Assessee by | None | |
| Revenue by | Shri N.J. Vyas, Sr DR | |
| Date of Hearing | 18.03.2025 | |
| Date of Pronouncement | 25.03.2025 | |

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income-tax (Appeals)/ ADDL/JCT(A)-7, Kolkata [hereinafter referred to as "CIT(A)" for short] dated 06.06.2024 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year (AY) 2016-17.

2. The assessee has raised following grounds of appeal:-

" (1) Classification of income based on assessee's source of investment:

Where assessee is Co-operative society carrying on banking business and its main source of income is Interest. It has made fixed deposit in Nationalized bank (UBI) from fund received from deposits of members. The AO has grossly erred in fact and in law to reduce deduction of interest of Rs. 3,59,878 u/s 80P(2)(a)(i) as considering as income from other source without considering explanation and clarification that such fixed deposit is invested from borrowed fund, received from members in course of and for the purpose of providing credit facility to its members. The disallowance of deduction of Rs. 3,56,878 is prayed to be deleted.

(2) Classification of income on very Purpose of assessee's existence:

The disallowance of Interest earned Rs. 3,56,878 from Nationalized Bank, on base of 'income from other source', by AO, without referring section 56 which specifically exclude all type of interest which are earned during course of business.

(3) No specific provision which prescribes Interest income on Fixed Deposit of Rs. 3,56,878 is classified under Income from other source and from members is Business: There is no provision which clarify that interest income earned from certain person is classifiable under business and profession. and from certain other person is income from other source. Therefore, interest classification bad in law and fact and not justifiable. Such classification need to set a side.

(4) The assessment made based partial application of Clause of provision of section 80P(2)(a)(i). The clause includes two type of income independently i.e. Banking business or providing credit facility to its members. The officer has considered only income relating to income from credit facility to its members without referring other clause and without mentioning the reason for exclusion of income of banking activity. The AO has erred in passing order excluding income from banking business without recording contrary observation. Addition of disallowance of deduction of Rs. 3,56,878 is not justified

(5) The reduction of deduction u/s 80P(2)(a)(i) by Rs. 3,56,878 is not justifiable based on fact and in eye of law.

(6) Proportionate Expense: Without prejudice to above grounds, even while passing order AO has erred in passing order, by not segregating income from extending to credit facility to members and income from other activity and proportional expense incurred for earning such income. The total income during the year was Rs. 77,01,097 as against this total expense was Rs. 67,49,130 and Net Profit Rs. 9,51,966. Total proportional expense to total income was 87.64%. Therefore, proportion expense of Rs. 3,12,768 @ 87.64% on Interest income of Rs. 3,56,878 on Fixed deposit has not been worked out. If AO has deed such thing then, net income would be arrived at Rs. 44.110. And disallowable deduction would be arrived at Rs. 44,110.

(7) General deduction upto Rs. 50000 u/s 80P(2)(c) of the act AO has while assessing income under other source interest income as would be computable in accordance with accounting principle as mentioned in ground 6 above, AO is bound to assessee correct income any by that way assessee must be allowed general deduction upto Rs. 50,000 under clause (c) of section 80P(2) of the act."

2. The assessee filed its return of income on 22.03.2017 declaring total income of Rs. Nil, after claiming deduction under Chapter VIA of Rs.9,51,967/-. Notice u/s 143(2) of the Act was issued to the assessee on 18.09.2017 and was served upon the assessee. Notice u/s 142(1) of the Act along with questionnaire was issued to the assessee on 27.10.2018 and subsequently notice u/s 142(1) r.w.s. 129 of the Act was also issued to the assessee. In response to the same, the assessee filed details.

3. The assessee is a Co-operative Society, engaged in the business of providing credit facility to its members. The Assessing Officer noticed that the assessee earned interest of Rs.3,56,878/- on the investments made with the Scheduled/Nationalized Bank/Non-Members and also received MGVCCL commission income of Rs.1,11,570/- totalling to Rs.4,68,448/- which is in addition to advancing loans to its members and the same falls under the head "Income from other sources". After taking cognisance of the reply, the Assessing Officer made disallowance u/s 80P deduction amounting to Rs.3,56,878/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing, none appeared on behalf of the assessee; therefore, we are taking cognisance of the assessment order and the order of the CIT(A) along with grounds contested by the assessee.

6. Heard the Ld. DR and perused all the material available on record. It is pertinent to note that the assessee-cooperative society was given 10 opportunities by the CIT(A), however the same was not availed by the assessee-cooperative society; but, at the same time, the CIT(A) has

dismissed the appeal for non-prosecution and has not commented anything related to the grounds. Therefore, the matter is remanded back to the file of the CIT(A) for proper adjudication of the issues contested by the assessee before the CIT(A). The assessee be given opportunity of hearing by following principles of natural justice. If the assessee, despite giving opportunity, does not appear before the CIT(A), then the CIT(A) will adjudicate the issues on merits in consonance with the grounds taken by the assessee before the CIT(A) as well as the statements of facts and the grounds, which are argumentative in nature, before the Tribunal be taken into account. The CIT(A) thereafter will take the decision as per the Income-tax Act, 1961.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 25th March, 2025

Sd/-

(SUCHITRA R. KAMBLE)
Judicial Member

Ahmedabad, the 25th day of March, 2025

*Btk**

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad