



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI



BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No. 019/PAN/2025

Assessment Year : 2017-18

Shri Basaveshwar Prathamik

Krishi Pattin Sahakari Sangh Niyamit

Examba, Dist.: Belgaum

PAN: AACAS1122N

..... *Appellant*

V/s

Income Tax Officer,

Ward-1, Nippani.

..... *Respondent*

Appearances

Assessee by : None for Assessee

Revenue by : Mr Ravindra Hattalli ['Ld. DR']

Date of conclusive Hearing : 19/03/2025

Date of Pronouncement : 02/04/2025

ORDER

PER G. D. PADMAHSHALI, AM;

This appeal is instituted by the assessee against DIN & Order No.

ITBA/APL/S/250/2024-25/1070664295(1) dt. 27/11/2024 passed

by the Ld. Addl/Jt Commissioner of Income Tax, Appeals-1,

Nagpur [for short 'Ld. CIT(A)/NFAC'] u/s 250 of the Income-tax

Act, 1961 [for short 'the Act'] anent to assessment year 2017-18.



2. The case was called twice; none appeared at the behest of the appellant. Considering the limited issue involved upon the request of respondent we deem it fit to reject adjournment application and proceed ex-parte u/r 24 of ITAT-Rules, 1963. Recording the same we advanced accordingly.

3. **The long and short of the case is that;** the assessee is a Co-Operative and for the year was in receipt of (a) interest income of ₹6,17,150/- from investment with Belgaum District Co-operative banks['BDCC' hereafter] and (b) profits from public distribution system ['PDS' hereafter'] of ₹29,328/-. The assessee filed its return ['ITR' hereafter] declaring total income of ₹34,500/- after claiming ₹18,35,900/- as deduction u/c VI-A of the Act. The said return of the assessee was selected for scrutiny wherein two additions were made viz; (1) disallowance of 52% interest received on investment with BDCC bank and (2) addition of profit from PDS. Thus, the consequential assessment u/s 143(1) of the Act was framed determining income at ₹3,34,746/- owing to denial of deduction claimed u/s 80P(2)(d) of the Act.



4. Aggrieved assessee unsuccessfully contested the former denial of 80P(2)(a)/(d) deduction in an appeal before first appellate forum. Thus, hurt by the orders of tax authorities below, the assessee society is in appeal before us for sole & substantive ground for full 80P(2)(a)/(d) deduction in relation to interest earned by it on investment held with BDCC bank.

5. From the facts solidified by the rival party's submission we note that, there is no dispute that the assessee is a co-operative society and is entitled to claim deduction u/s 80P(2)(a)(i)/(d) of the Act. Further there is much less dispute over the nature of income received/earned by the assessee in the form of interest on deposits & balances held with BDCC Bank. The Revenue in the present case first on hand denied 80P(2)(a)(i) deduction to the appellant assessee for a rocket reason that interest income was earned by the appellant was out of idle funds' investments and then solidified 80P(2)(d) deduction the disentitlement on the premise that BDCC (the payer of the interest) is not a co-operative society within the meaning of section 2(19) of the Act.



6. It the claim of the Revenue that, the character of such interest in view of the decision of Hon'ble Jurisdictional High Court in '*PCIT Vs Totgar's Co-operative Sale Society Ltd.*' [2017, 292 ITR 74 (Kar)] falls out of business operation hence not neither deductible u/c (a) nor u/c (d) of section 80P(2) of the Act.

7. At the outset we note that, a similar issue of deduction of 80P(2)(d) deduction in relation to interest/dividend received by the co-operative society from BDCC came for consideration before the Co-ordinate bench in Hind Co-Operative Housing Society Ltd. Vs ITO [ITA No. 038/PAN/2023 dt.01/09/2023] whereby the appeal of assessee was allowed observing the followings;

5. *The solitary issue in the present appeal hinges around allowability of deduction u/s 80P(2)(d) of the Act. On perusal of provisions of section 80P(2)(d), it is clear that income derived by a cooperative society from its investment held with other cooperative societies shall be deductible u/s 80P(2)(d) of the Act from the total income of a cooperative society. Therefore, by application of stricter interpretation, the chief determinant factor entitling a claim of deduction u/s 80P(2)(d) in the hand of assessee society is that, interest income should have been*



earned by it from any cooperative society registered under the provisions of law, irrespective of nomenclature with which such payer society is known for.

6. *In the present case, the reasoning given by the lower tax authorities in denying the claim for deduction u/s 80P(2)(d) of the Act is that interest was received from cooperative bank, however this reasoning has no legs to stand as a cooperative bank is principally a cooperative society and holds a banking license to operate on a larger scale under the guidelines of RBI. This issue was came to consider by Hon'ble Karnataka High Court in 'CIT Vs Totagars Cooperative Sale Society', finds reported in 392 ITR 74 wherein their lordships referring to the decision of Hon'ble Apex Court in the case of Totgars Co-operative Sales Society Ltd. (supra) held that the ratio of decision of the Hon'ble Supreme Court in the aforesaid case (supra) not to be applied in respect of interest income on investment as same falls u/s 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. We further note that, the co-ordinate bench in 'Sant Motiram Maharaj Sahakari Pat Sanstha Ltd. vs. ITO', reported in 120 taxmann.com 10, after making reference to the decisions of the Hon'ble Supreme Court in the case of Totgars Cooperative Sales Society Ltd. (supra) and having noticed the divergent views of the Hon'ble Karnataka High Court in the case of 'Tumkur Merchants Souharda Credit Co-op. Ltd. Vs ITO', 55 taxmann.com 447 and decision of Hon'ble Delhi High Court in 'Mantola Cooperative Thrift Credit Society Ltd. Vs CIT', reported at 50 taxmann.com 278, the decision rendered in 'Mantola Cooperative Thrift Credit Society Ltd. (supra) had not been preferred to ratio laid in 'Tumkur Merchants*



Souharda Credit Co-op. Ltd. (supra), the relevant observation of the co-ordinate bench are placed as under;

*“9. The Pune Benches of the Tribunal in Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016, dated 9-4-2019) decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014, dated 19-8-2015) has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.) allowing deduction u/s. 80P on interest income and that of the Hon'ble Delhi High Court in Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110 DTR 89 (Delhi) not allowing deduction u/s.80P on interest income earned from banks. Both the Hon'ble High Courts took into consideration the ratio laid down in the case of Totgar's Cooperative Sale Society Ltd. (2010) 322 ITR 283 (SC). There being no direct judgment from the Hon'ble jurisdictional High Court on the point, the Tribunal in Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra) preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). 10. Insofar as the reliance of the ld. DR on the case of Pr. CIT and Another Vs. Totagars Cooperative Sales Society (2017) 395 ITR 611 (Kar.) is concerned, **we find that the issue in that case was the eligibility of deduction u/s.80P(2)(d) of the Act on interest earned by the assessee cooperative society on investments made in co-operative banks.** In that case, the assessee was engaged in the activity of marketing agricultural produce by its members; accepting deposits from its members and providing credit facility to its members; running stores, rice mills, live stocks, van section, medical shops, lodging, plying and hiring of goods and carriage etc. It was in that background of the facts that the Hon'ble High Court held that the assessee could not claim deduction u/s.80P(2)(d) of the Act. When we consider the impact of this decision, it turns out that the same is not germane to case under consideration in view of the position that the claim of the instant assessee is directly about the eligibility of deduction u/s.80P(2)(a)(i) of the Act and not u/s.80P(2)(d). Moreover, so many decisions relied on by the ld. AR amply go to prove that the view taken by the AO, cannot by any standard, be construed as*



not a possible view. We, therefore, hold that the ld. Pr. CIT was not justified in exercising the revisional power anent to interest income of Rs.22,34,270/- earned on investments made with co-operative banks.” (Emphasis supplied)

7. *Maintaining same parity, we adopt equi-reasoning and hold that, the interest earned by the appellant society is from co-operative banks namely BDCC, Saraswat Co-op. Bank, Tukaram Co-op. Bank and Cosmos Co-op. Bank, and as these being registered as co-operative society under respective state laws, the entire interest qualifies for deductions u/s 80P(2)(d) of the Act. Consequently, the views adopted by the tax authorities below are not in conformity with legal position and binding judicial precedents, hence deserves to be vacated. Resultantly, we set-aside the impugned order and reverse the disallowance.’*

8. In the absence of anything contrary brought to our attention by the respondent Revenue or convincing effectively with sufficient reasons for diverting from the judicial precedents, we see strong force in the argument of the appellant to apply the former ratio in its case as a matter of consistency. In view thereof, adopting equi-reasoning, we set-aside the impugned order and reverse the disallowance holding that, the interest on fixed deposits earned by the appellant assessee from BDCC Bank qualifies for full deductions u/s 80P(2)(d) of the Act.



9. Before we depart; we state that, unlike the provision of section 80P(2)(a) providing for deduction of profits & gains from specified activities, the section 80P(2)(d) of the Act provides for deduction of whole of interest/dividend income received from a co-operative society. When the Act clearly provides for deduction of interest/dividend income in wholesome without reducing therefrom of any cost or expenditure, then there remains no authority to reduce such claim by imputing a notional cost of funds or expenditure therefrom. Permitting the tax authorities to do so in our considered view would not only be against the law but also be in the nature of creating violence to the clear provision, thus defeating the very purpose of provision. Therefore, impugned actions of reducing the cost of funds from the interest earned deserves to be vacated in tantum.

10. In result, the appeal of the assessee is ALLOWED.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court the date mentioned hereinbefore.

-S/d-

PAVAN KUMAR GADALE
JUDICIAL MEMBER

Panaji, 02nd April, 2025.

Copy of the Order forwarded to :

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|-------------------|-----------------------------------|---------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The AO Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

By Order,
Sr. Private Secretary / AR ITAT, Panaji.