

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘A’**

**BEFORE SHRI RAJPAL YADAV,
HON’BLE JUDICIAL MEMBER
AND
SHRI WASEEM AHMED
HON’BLE ACCOUNTANT MEMBER**

**ITA No.2018/Ahd/2017
निर्धारण वर्ष/ Asstt. Year: 2014-15**

M/s.Vir Transport Operator Co-op. Credit and Services Society Godhra Road, Limdi, Tal. Jhalod Dist. Dahod 389 180. PAN : AAAAS 2228 K	Vs.	ITO, Ward-2 Dahod.
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**ITA No.2019/Ahd/2017
निर्धारण वर्ष/ Asstt. Year: 2014-15**

**AND
ITA No.97/Ahd/2017
Asstt.Year 2013-14**

The Lunawada Taluka Primary School Teachers Co-op. Credit Society Ltd. At Parama, Lunawada 389 230 Julla Mahisagar. PAN : AAAAT 2876 N	Vs.	ITO, Ward-2 Panchmahal Circle Godhra.
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(Applicant)		(Responent)
Assessee by :		Ms.Urvashi Shodhan, AR
Revenue by :		Shri Deelipkumar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 08/01/2020
घोषणा की तारीख /Date of Pronouncement: 09/01/2020

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Present three appeals are directed at the instance of the assesseees against orders of Id.CIT(A)-4, Baroda dated 5.5.2017 passed for the asstt.Year

2014-15 (in the case of Vir Transport Operators Co-op. Credit Society Ltd.) and orders dated 30.9.2016 and 15.6.2017 for the Asstt.Year 2013-13 and 2014-15 (in the case of the Lunawada Taluka Primary School Teachers Co-op. Credit Society).

2. The Id.counsel for the assessee at the very outset submitted that ITA No.97/Ahd/2017 was decided by the Tribunal vide order dated 10.5.2018. Thereafter, the assessee has filed an MA bearing no.263/Ahd/2018 pleading therein that ground no.5 in respect of allowability of deduction of interest income derived by the assessee from deposits made with cooperative bank and society under section 80P(2)(d) was not decided by the Tribunal. The Tribunal has allowed this MA and restored this ground for adjudication afresh. In this way, we take all these three appeals together.

3. A perusal of grounds of appeal taken by both the assessees in the Asstt.Year 2014-15 would reveal that they have taken seven grounds of appeal, which are not in consonance with the Rule 8 of the Income Tax (Appellate Tribunal) Rules, 1963 - they are descriptive and argumentative in nature. In brief, the grievances of both the assesses can be divided into two compartments viz. what amount of interest income deserves to be excluded from the computation of deduction under section 80P(2)(a)(i) as well as under section 80P(2)(d) of the Income Tax Act.

4. With the assistance of Id.representatives, we have gone through the record carefully. It emerges out from the record that both the assessees are credit cooperative societies, which has been entertaining deposits from their members, and providing credit facilities. The assessees have earned two types of interest income viz. (a) interest income from nationalised banks, and (b) interest income from cooperative societies/cooperative banks. The

ld.counsel for the assessee submitted that computation of deduction made under section 80P(2)(a)(i) as well as under section 80P(2)(d). She contended that as far as interest income from scheduled bank is concerned, the assessee is not entitled for deduction under section 80P(2)(a)(i) in view of judgment of Hon'ble jurisdictional High Court in the case of state Bank of India Vs.CIT, 72 taxmann.com 64 (Guj). She pleaded that while working out the amount out of interest income from scheduled bank, its net interest income ought to be disallowed. If any expenditure relatable to earning of such interest income, deserves to be set off against the interest income, and thereafter, net is to be excluded from the deduction. As far as interest income from cooperative bank/society is concerned, this issue is covered in favour of the assessee by various decisions. She relied upon latest order of the Tribunal passed in ITA No.1132/Ahd/2018 in the case of Sahyog Co-op. Credit Society Ltd. The Tribunal has decided this appeal on 29.11.2019. While dealing with this issue, the Tribunal has decided as under:

“6. As regards Ground No.3, it concerns eligibility of deduction claimed under s.80P(2)(d) of the Act on account of interest income received from investment made with co-operative banks. It was submitted on behalf of the assessee that the issue is squarely covered in favour of the assessee in the case of Banaskantha District Co-operative Milk Producers Union Ltd. vs. ACIT ITA No.1090/Ahd/2015 wherein the co-ordinate bench has held in favour of assessee by making reference to the decision of the Hon'ble Gujarat High Court in the case of CIT vs. Sabarkantha District cooperative Milk Producers Union Ltd. Tax Appeal No. 473 of 2014. It was pointed out on behalf of the assessee that K.D.C.C. Bank is a co-operative bank registered under Co-operative Society Act and investment made in this bank and interest earned. This investment is eligible for deduction under s.80P(2)(d) of the Act.

7. In the given facts as noted above, the claim of the assessee under s.80P(2)(d) of the Act appears to be in consonance with the plain language of the Act. We thus find merit in the claim of the assessee for

deduction under s.80P(2)(d) of the Act in respect of income earned from K.D.C.C. Bank.”

5. On the strength of the above, she contended that interest income from any cooperative bank/credit societies be allowed as deduction under section 80P(2)(d) of the Act. She drew our attention towards computation and submitted that in the case of the Lunawada Taluka Primary School Teachers Cooperative Credit Society Ltd. for the Asstt.Year 2014-15, this interest income from cooperative bank is Rs.36,08,164/-. Similarly, for the Asstt.Year 2013-14 in the account of the society, the interest income under section 80P(2)(d) from the cooperative bank is of Rs.35,71,014/-. She prayed that these income be allowed as deduction under section 80P(2)(d) of the Act. In the case of Vir Transport Operators Co-op Credit Society, such amount has been quantified at Rs.2,91,959/-.

6. The Id.DR on the other hand, relied upon orders of the Revenue authorities, and submitted that the assessee is not entitled for deduction on interest income from scheduled bank as well as cooperative bank under section 80P(2)(a)(i) as well as under section 80P(2)(d) of the Act.

7. On due consideration of the above facts and circumstances, we are of the view that as far as the issue regarding admissibility of deduction of interest income from scheduled bank under section 80P(2)(a)(i) is concerned this has been settled by the Hon'ble Jurisdictional High Court in the case of State Bank of India (supra), and the assessee is not entitled for such deduction. This proposition was not even disputed by the Id.counsel for the assessee. Only thing which requires to be done is re-determination or quantification of amount which is to be disallowed out of interest income from the scheduled bank. The Id.AO shall work out the net interest income

from the deposits with scheduled bank, and thereafter exclude that amount from the computation of deduction claimed under section 80P(2)(a)(i) of the Act. As far as interest income from cooperative bank/society is concerned in view of the decision of co-ordinate Bench, such income will qualify for grant of deduction under section 80P(2)(d) of the Act. The Id.AO shall work out net amount of such interest income, and thereafter grant deduction under section 80(2)(d) of the Act.

8. As far as ITA No.97/Ahd/2017 is concerned, in this year only dispute in the present proceedings is admissibility of deduction under section 80P(2)(d) of the Act of the interest income earned from cooperative bank/society. *Qua* this aspect, the AO shall follow the same direction as given in Asstt.Year 2014-15.

9. In the result, appeals of the assessee are allowed for statistical purpose.

Order pronounced in the Court on 9th January, 2020 at Ahmedabad.

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 09/01/2020