

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA Nos.156 & 157/Ahd/2023
Assessment Years: 2017-18 & 2018-19**

Jetalpur Seva Sahkari Mandali Limited., 1, Naj Pirana Road, Jetalpur, Dascroi, Ahmedabad – 382 427. [PAN – AAAAJ 1086 G]	Vs.	The DCIT, Circle – 3(1)(1), Ahmedabad.
(Appellant)		(Respondent)
Assessee by	Shri Pankaj Shah, AR	
Revenue by	Shri Sanjay Jain, Sr. DR	
Date of Hearing	06.06.2023	
Date of Pronouncement	14.06.2023	

ORDER

These two appeals are filed by the Assessee against two separate orders dated 29.09.2022 & 27.09.2022, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Years 2017-18 & 2018-19 respectively.

2. The Assessee has raised the following grounds of appeal :-

ITA No.156/Ahd/2023 for A.Y. 2017-18

“1. On facts and circumstances of the case and in law the Ld. CIT(A) has failed to delete the disallowance made by the Ld. A.O. of Rs.9,43,000/-. Therefore, your appellant prays your good self to delete the disallowance of Rs.9,43,000/- made by the Ld. A.O.”

ITA No.157/Ahd/2023 for A.Y. 2018-19

“1. The Dy. Comm. has erred in not considering the deduction u/s.80P(2)(a) of the Income Tax Act, 1961, regarding the receipt of interest income of Rs.5,51,878/- from the Pump Division of Mandali.”

3. Taking up Assessment Year (A.Y.) 2017-18 as the issue involved is identical in both these appeals. The assessee filed return of income for A.Y. 2017-18 on 25.10.2017 declaring total income of Rs.21,52,910/-. The return was processed under Section 143(1) of the Income Tax Act, 1961. The case was selected for scrutiny under “limited scrutiny” for the reason large claim of

deduction under Chapter-VI. The Assessing Officer observed that from the computation of income, it appears that the assessee had claimed deduction under Section 80P of Rs.33,21,232/-. This included interest income of Rs.9,43,000/- received from its Petrol Pump branch business. The petrol pump had borrowed funds from the assessee's head office for which the assessee had received interest. The assessee was asked to justify as to how interest from petrol pump was eligible for deduction under Section 80P of the Act. The assessee filed reply before the Assessing Officer merely contending that as main activity of HO division is to provide finance so that the interest income from Pump Division of Rs.9,43,000/- claimed as deduction under Section 80P(2)(a) of the Act. The assessee further submitted before the Assessing Officer that the interest expense claimed by the Pump Division and interest income shown in the HO Division and claimed as deduction of Rs.9,43,000 is correct. After taking cognisance of the assessee's reply, the Assessing officer disallowed Rs.9,43,000/- which was claimed under Section 80P of the Act.

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. The Ld. AR submitted that there is a delay of 103 days in filing the appeal for which the assessee has filed the affidavit. The reasons explained by the assessee for the delay appear to be genuine as the email id. submitted was not checked due to certain difficulties on the part of the assessee society. Therefore, the delay is condoned.

6. The Ld. AR submitted that the assessee is primary credit cooperative society consisting of two Divisions and main division which is engaged into providing credit facility to only its Farmer Members and other division is Petrol Pump Division. The assessee filed its return of income on 25.10.2017 declaring total income at Rs.21,52,910/-. The Ld. AR submitted that the HO division is carried out different activities for its members such as selling of fertilisers, seeds, agriculture instruments to its farmer members and providing different types of credit finance to its farmer members only. These activities are coming under the purview of deduction under Section 80P of the Act and the same is available to the HO division. Ld. AR further submitted that the activities carried out by Pump

Division are fully taxable. The claim of the deduction under Section 80P of Rs.33,21,232/- made by the assessee which also included interest income of Rs.9,43,000/- received from its own Petrol Pump Division also needs to be coming under the purview of deduction under Section 80P of the Act. The Ld. AR further submitted that as the Pump Division had not taken any secured/unsecured loan from any bank/financial institutions, for running the pump division, it required the working capital. So, the pump division had taken the same from the HO Division as the main activity of the HO Division is providing the finance to its farmer members. The loan taken by the Pump Division cannot be considered as commercial and, therefore, the claim as deduction under Section 80P(2)(a) of the Act is justifiable. The Ld. AR submitted that if the Pump Division takes loan from outsiders, then it had required to incur interest expenses, renewal charges, audit charges, required to provide security etc. As the pump division had taken loan from the HO division so the interest charged by the HO division claimed as the expenditure and contrary the HO division had also shown the same as its income. Even the HO Division had not given any one amount of finance to the pump division. During the year, pump division had repaid the same to the HO division and also taken back from the HO division. The Ld. AR submitted that the pump division had taken the finance from the HO division on the basis of working capital requirement. Even the interest expenses calculated by the pump division on the days basis of outstanding balance at the rate of 12%, so there is no any excessive interest expense claimed by the pump division. Thus, interest expenses claimed by the pump division and the interest income shown in the HO Division which was claimed as deduction of Rs.9,43,000/- is correct. The Ld. AR relied upon the decision of Tribunal in case of Ghatal Cooperative Agriculture and Rural Development Bank Limited vs. ACIT (ITA No.114/Kol/2023, order dated 31.03.2023). The Ld. AR submitted that both the divisions are distinct from each other as both the divisions' employees are different. The assets held by both the Divisions are different and separate books of accounts were maintained by these two Divisions. The Ld. AR further submitted that the finance provided by the assessee to its farmer members was of Rs.8,94,38,491/- and providing finance is the core activity of the assessee. Out of the interest income of Rs.1,03,57,241/-, Rs.94,14,241/- is related to the providing of finance to the farmer member and Rs.9,43,000/- is the interest income from the pump division against which the interest expense of Rs.48,15,805/- was shown by the assessee society as the

share capital of Mandali at Rs.90,72,255/- and loan taken from the ADC Bank is of Rs.6,24,92,720/-. The Ld. AR further submitted that if the interest expenses are not incurred by the Pump Division, then it shows over profit, which gives false financial information. Even if the HO division not taken the interest income from the Pump Division, then how it could justify the finance made to the Pump Division.

7. The Ld. DR submitted that interest is clearly derived from commercial activity of Pump Division which is not exempt under Section 80P of the Act. The Ld. DR further submitted that the assessee is not a Consumer Co-operative Society since members not consuming articles such as Petrol & Diesel supplied by assessee (Petrol Pump Branch), therefore, the CIT(A) has rightly confirmed the order of the Assessing Officer thereby disallowing deduction under Section 80P(2)(a)(i) of the Act.

8. Heard both the parties and perused all the relevant material available on record. It is an admitted position that the Pump Division of the assessee society is not carrying out the activities beneficial to its farmer members. The activities carried out by the Pump Division are fully taxable and not coming under the purview of Section 80P of the Act. The decision cited by the Ld. AR will not be applicable in the present case as it is not in consonance with the requirement of Section 80P related to the distinguishing facts between the present assessee's case and in case the decision of the Tribunal which was cited by the Ld. AR in this present appeal, both the Divisions are distinct from each other and the HO Division has given the loan to the Pump Division which was utilised for the commercial activities of the Pump Division and cannot be said to serve as per the provisions of Section 80P deduction available to the societies and its members. Therefore, the present assessee's case in respect of Pump Division has been rightly denied the deduction claimed under Section 80P of the Act by the Assessing Officer as well as by the CIT(A). Therefore, appeal of the assessee is dismissed.

9. As regards to ITA No157/Ahd/2023, there is a delay of 103 days for which the assessee has already explained the reasons and, therefore, the delay is condoned.

10. The facts of the A.Y. 2018-19 is also identical to that of A.Y. 2017-18 and, therefore, ITA No157/Ahd/2023 filed by the assessee is also dismissed.

11. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced in the open Court on this 14th June, 2023.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 14th day of June, 2023

PBN/*

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad