

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA Nos. 418 & 419/JP/2017
निर्धारण वर्ष/Assessment Years : 2013-14 & 2014-15.

Income-tax Officer, Bundi.	बनाम Vs.	Shree Keshorai Patan Sahakari Sugar Mill, Keshorai Patan, Bundi.
स्थायी लेखा सं./जीआईआर सं./PAN No. AACAS 5985 K		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं./C.O. No. 23 & 24/JP/2017
Arising out of ITA No. 418 & 419/JP/2017
निर्धारण वर्ष/Assessment Year : 2013-14 & 2014-15

Shree Keshorai Patan Sahkari Sugar Mill Keshorai Patan, Bundi.	बनाम Vs.	The ITO, Bundi.
स्थायी लेखा सं./जीआईआर सं./PAN No. AACAS 5985 K		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

राजस्व की ओर से/ Revenue by : Shri R.A. Verma (Add'l CIT)
निर्धारित की ओर से/ Assessee by : Shri Mahendra Gargieya (Advocate)

सुनवाई की तारीख/ Date of Hearing : 11.01.2018.
घोषणा की तारीख/ Date of Pronouncement : 31/01/2018.

आदेश/ ORDER

PER BENCH

These two Appeals by the Revenue and Cross Objections by the assessee are directed against two separate orders of Ld. CIT(A) both dated 14.3.2017 for the Assessment Year 2013-14 & 2014-15 respectively.

2. First we take up Revenue's appeal pertaining to the A.Y. 2013-14 wherein the Revenue has raised the following grounds of appeal:-

"On the facts and in the circumstances of the case the Ld. CIT(A), kota has erred in:-

1. Deleting addition of Rs. 2,65,43,871/- made by disallowing deduction u/s 80P of the Act without appreciating the facts mentioned by the AO in the assessment order.
2. The appellant craves liberty to raise additional ground and to modify/ amend the ground of appeal at the time of hearing."

3. The assessee is a Co-operative Society and was running a sugar mill, however the sugar mill stood closed since the year 2003, and is under liquidation. The assessee filed its return of income on 30/10/2013 declaring nil income, after claiming the deduction u/s 80P(2) and u/s 80(P)(2)(b) of Rs. 2,65,43,871/-. The AO denied the claim of the assessee on the ground that the assessee is not carrying out banking business or the income is derived from providing credit facilities to its members as per section 80P(2)(a)(1) of the Act . The assessee challenged the action of the AO before the Ld. CIT(A). The Ld. CIT(A) has allowed the claim of deduction u/s 80P in respect of the entire amount of Rs. 2,65,43,871/-. Aggrieved by the order of the Ld. CIT(A), the Revenue has filed the present appeal.

4. Ld. D/R has submitted that the assessee has earned the income on account of interest on FDRs with Co-operative Bank and not an amount deposited with other Co-operative societies and therefore the deduction u/s 80P(2)(d) is not available on such interest income. He has further contended that a part of the income has been derived from the deposits made with banks and not even with co-operative banks. Therefore, the deduction u/s 80P(2)(d) is not available in respect of the interest

income on the deposits made with the banks other than co-operative bank. He has relied upon the orders of the Assessing Officer. The Ld. D/R has further contended that the AO has assessed interest income as income from other sources u/s 56 of the Income Tax Act and therefore in view of the decision of Hon'ble Supreme Court in case of **Totagar's Co-operative Sale Socity Ltd. vs. ITO 322 ITR 283**, deduction u/s 80P is not available on such income not derived from the business activity of the society.

5. On the other hand, Ld. AR of the assessee has submitted that a bare perusal of section 80P(2)(d) of the Act shows that to get the deduction under this section, a co-operative society is not required to prove anything except that the interest is earned from the investment made in FDRs with other Cooperative Society. Therefore, the requirement of carrying on the banking business or other business was not mandatory for the claim of benefit u/s 80P(2)(d) of the Act. In support of his contention, he has relied upon the decision of the Hon'ble Jurisdictional High Court dated 1st September 2016 in case of CIT vs. Rajasthan Rajya Sahakari Kray Vikray Sangh Ltd. DB ITA Nos. 139/2002, 20/2004, 24/2004, 27/2004. The Ld. A/R has also relied upon the decision of the Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd. vs. ACIT 72 taxman.com 169 (Guj.) as well as the decision of the Mumbai Bench of the Tribunal dated 15.01.2016 in case of Lands End and Co-operative Housing Society Ltd. vs. ITO in ITA No. 3566/Mum/2014. Hence, the Ld. A/R has contended that a co-operative bank is primarily a co-operative society and sub-classification of cooperative societies engaged in other business activity is only for providing the benefit u/s 80P of the Act whereas for the purpose

of section 80P(2)(d) the deposits/investment made in the cooperative society includes cooperative banks. He supported the order of the Ld. CIT(A).

6. We have considered the rival submissions as well as relevant material on record. We find that the entire income of the assessee for the year under consideration is only from interest on deposits made with bank as well as cooperative banks. The assessee in its computation of income has given the details of the interest income which comprises the gross interest receipt of Rs. 2,85,47,071/- out of which interest earned on the deposits in saving bank with SBBJ of Rs. 34,779/-. The balance interest received by the assessee is from the deposits made with cooperative banks except the small amount of Rs. 3,221/- as interest on molasses fund. After reducing the interest paid on FDR loans from Bundi Central Co-operative Bank of Rs. 20,03,200/-, the net interest income was declared by the assessee at Rs. 2,65,43,871/-. The assessee claimed deduction u/s 80P(2)(c)(ii) in respect of the interest deposit in saving bank with SBBJ of Rs. 34,779/- and deduction u/s 80P(2)(d) in respect of the interest from cooperative banks of Rs. 2,65,09,092/-. The AO disallowed the claim of the assessee in toto, on the ground that the assessee is not in the business of banking or not providing credit facilities to its members. The Ld. CIT(A) allowed the claim of the assessee by following the various decisions of the Hon'ble High Court as well as this Tribunal as under:-

"The brief facts of the case are that the assessee had claimed deduction u/ s 80P (2)(d) of the Act in respect of interest of Rs.2,65,43,870/- on fixed deposits with Coop. Banks. The AO disallowed the said deduction as claimed by the by rejecting the claim of the assessee by holding that since the appellant assessee was not carrying out any commercial activities since year

2000, it was not providing any credit facilities to its members, so it was not eligible for deduction u/s 80P (2) (a) (i) and other sub sections of section 80P.

From the facts of the case it is clear that the appellant which is a Co-operative Sugar Mill under liquidation since 2003, in order to compensate it for reclamation of some part of the land owned by it, the State Government has given it a compensation amount previously which had been invested in Bank deposits by the appellant & from which interest the day to day expenses are being met.

The A.O. has apparently not understood the provisions involved & applied provisions of section 80P (2) (a)(i) in the case. Subsequently he has held that the society is not eligible for any other deductions u/s 80P.

It is notable that the assessee sugar mill has no other income besides the interest income, being in liquidation. In order to claim deduction u/s 80P (2)(d) of the Act, the only condition is that the assessee should be a cooperative society and it should be having interest income accrued from investment with other cooperative society (including co-op. Banks) which is a part of its Gross total income.

While the above cases are more on allowability of gross interest u/s 80P (2)(d), they emphasize the allowability of interest related deduction as such.

This issue has findings in the landmark order, Hon'ble Supreme Court in the case of Totagar's Co-operative Sale Society Ltd. vs. ITO 322 ITR 283 283 held that the interest income from the short term deposits and securities not immediately required in the business of the assessee is assessable under the head 'Income from Other Source' and no deduction u/s 80P(a)(i) of the Act is allowable. Thus the said decision was delivered by the Hon'ble Apex Court on the provisions of Section 80P(2)(a)(i) of the Act.

In the case of Totagar's Co-operative Sale Society Ltd v/ s ITO (supra) the Hon'ble Supreme Court while interpreting the section 80P(2)(a)(i) of the Act held that surplus funds not immediately required in the business and invested

in the short term deposit would be assessable under the head "income from other sources" where the Co- operative society is engaged in carrying on business of banking or providing credit facilities to its members and consequently no deduction is allowable u/s 80P(2)(a)(i) of the Act.

Thus, from a perusal of the provisions of u/s 80P(2)(a)(i) and 80P(2)(d) it is clear that the former deals with deduction in respect of profits and gain of business in case of the co-operative society carrying on business of banking or providing credit facilities to its members if the said income is assessable as income from business whereas latter provides for deduction in respect of income by way interest and dividend derived by assessee from its investments with other cooperative society. Thus it is amply clear that a cooperative society can only avail deduction u/s 80P(2)(a)(i) in respect of its income assessable as business income and not as income from other sources if it carries on business of the banking or providing credit facilities to its members and has income assessable under the head business whereas for claiming u/s 80P(2)(d) it must have income of interest and dividend on investments with other Co-operative society may or may not be engaged in the banking for providing credit facilities to its members and the head under which the income is assessable is not material for the claim of deduction under this section.

The Honble Supreme Court in the case of Totagar's Co-operative Sale Society Ltd.(Supra) held that a society has surplus funds which are invested in short term deposits where the society is engaged in the business of banking or providing credit facilities to its members in that case the said income from short term deposits shall be treated and assessed as income from other sources and deduction u/s 80(P)(2)(a)(i) would not be available meaning thereby that deduction u/s 80(P)(2)(a)(i) is available only in respect of income which is assessable as business income and not as income from other sources. Whereas in distinction to this , the provisions of section 80(P)(2)(d) of the Act provides for deduction in respect of income of a coop society by

way of interest or dividend from its investments with other coop society if such income is included in the gross total income of the such coop society.

The ITAT, Mumbai has also held the same view in the case of Lands End Cooperative Housing Society vs. I.T.O. ward-16(1)(3), Mumbai in ITA No. 3566/Mum/ 2014 for Assessment Year: 2009-10 vide order dated 15/01/2016.

In view these facts and circumstances I am of the view that the assessee is entitled to the deduction of Rs.2, 65, 43,870/- in respect of interest received/derived by it or414bsits with coop. banks under section 80(P)(2)(d).

Therefore the AO is directed to delete the above disallowance and subsequent addition made u/s 56 accordingly.

In the result, this ground of assessee's appeal is allowed."

6.1 As regards the claim u/s 80P(2)(d), we find that the only condition for availing the deduction under this provision is any income by way of interest or dividend derived by the Cooperative society from its investment with any other cooperative society, the whole of such income is allowable for deduction u/s 80P(1). Therefore, there is no condition for the assessee society to engaged in the activity of provide credits to the Members or banking business for availing the deduction u/s 80P(2)(d) read with Section 80P(1) of the Act. As regards the cooperative bank shall be treated as cooperative societies for the purpose of the interest income on investment in such cooperative bank u/s 80P(2)(d) the Mumbai Bench of this Tribunal in case of Lands End Co-operative Housing Society Ltd. vs. ITO (Supra), after considering the decision of the Hon'ble Supreme Court in case of Totagar's Co-operative Sale Society Ltd. Vs. ITO (Supra) has considered and decided this issue in para 8.3 as under:-

"8.3 We have heard the rival submissions and perused the material on record. We find that the CIT(A) enhanced the income of the assessee by rejecting the

deduction u/s 80P(2)(d) of the Act of Rs.14,88,107/- being interest on investment with other Coop. banks by following the decision in the case of Bandra Samruddhi Co-operative Housing Society Ltd.(Supra) which was passed on the basis of the decision passed by the Hon'ble Supreme Court in the case of Totagar's Co-operative Sale Society Ltd. In the case of Totagar's Co-operative Sale Society Ltd v/s ITAT (supra) the Hon'ble Supreme Court while interpreting the section 80P(2)(a)(i) of the Act held that surplus funds not immediately required in the business and invested in the short term deposit would be assessable under the head "income from other sources" where the Co-operative society is engaged in carrying on business of banking or providing credit facilities to its members and consequently no deduction is allowable u/s 80P(2)(a)(i) of the Act. Whereas in the case before us the issue is whether a co-operative society which has derived income on investment with cooperative banks is entitled to deduction u/s 80P(2)(d). The provisions of Section 80P(2)(d) of the Act provide deduction in respect of income by way of interest or dividend on investments made with other Cooperative society. For the purposes of better proper understanding of these two provisions the relevant extract of the section are reproduced below:

80P: Deduction in respect of income of co-operative Societies.

1. Where, in the case of an assessee being a co-operative society, the gross total income, includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

2. The sums referred to in sub-section (1) shall be the following, namely:-

(a) In the case of a co-operative society engaged in-

(i) Carrying on the business of banking or providing credit facilities to its members.

The whole of the amount of profits and gains of business attributable to any one or more of much attributes.

(d) In respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income."

From the close perusal of the provisions of u/s 80P(2)(a)(i) and 80P(2)(d) it is clear that the former deals with deduction in respect of profits and gain of business in case of the co-operative society carrying on business of banking or providing credit facilities to its members if the said income is assessable as income from business whereas latter provides for deduction in respect of income by way interest and dividend derived by assessee from its investments with other cooperative society. Thus it is amply clear that a cooperative society can only avail deduction u/s 80P(2)(d)(i) in respect of its income assessable as business income and not as income from other sources if it carries on business of the banking or providing credit facilities to its members and has income assessable under the head business whereas for claiming u/s 80P(2)(d) it must have income of interest and dividend on investments with other Co-operative society may or may not be engaged in the banking for providing credit facilities to its members and the head under which the income is assessable is not material for the claim of deduction under this section. Now will evaluate the assessee's case in the light of the decision of the Hon'ble Supreme court. The Honble Supreme Court in the case of Totagar's Co-operative Sale Society Ltd.(Supra) held that a society has surplus funds which are invested in short term deposits where the society is engaged in the business of banking or providing credit facilities to its members in that case the said income from short term deposits shall be treated and assessed as income from other sources and deduction u/s 80(P)(2)(a)(i) would not be available meaning thereby that deduction u/s 80(P)(2)(a)(i) is available only in respect of income which is assessable as business income and not as income from other sources. Whereas in distinction to this , the provisions of section 80(P)(2)(d) of the Act provides for deduction in respect of income of a coop society by way of interest or dividend from its investments with other coop. society if such income is included in the gross total income of the such coop society. In view these facts and circumstances we are of the considered view that the assessee is entitled to the deduction of Rs. 14,88,107/-in respect of interest received/derived by it on deposits with coop. banks and therefore the appeal

of the assessee is allowed by reversing the order of the CIT(A). The AO is directly accordingly."

6.2 We further note that the Hon'ble Jurisdictional High Court in the case of CIT vs. Rajasthan Rajya Sahakari Kray Vikray Sangh Ltd. (Supra) by following the decision of Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd. vs. ACIT, 72 taxmann.com 169 has held in as under:

"8. We have considered the decisions cited by learned advocate for the assessee as well as the revenue. We feel that the decisions cited by the learned advocate for the assessee shall be applicable on the facts of the present case. In the case of *K. Nandakumar v. ITO* [1993] 204 ITR 856/[1994] 72 Taxman 223 (Ker.), the Kerala High Court has held as under:

'4. The effect of Section 80AB is that, for the purpose of computing the deduction under Section 80L, the amount of income of that nature as computed in accordance with the provisions of the Act shall alone be deemed to be the amount of income of that nature. What the section means is that the net income by way of interest computed in the manner provided by the provisions of the Act shall alone be taken into account for computing the benefit. But it must be noted that payment of interest under a loan transaction incurred for the purpose of deriving income from business is not an item which arises in the computation of interest income "in accordance with the provisions" of the Act. The said amount has to be paid irrespective of whether any interest income is otherwise received or not. Though the interest is payable to the same bank, the fact remains that the amount of income by-way of interest is not calculated under the provisions of the Act with reference to such outgoings which fall under different heads. The assessee is entitled to deduction under Section 37 of all expenditure incurred for the purpose of deriving the business income, and it is under that head that the interest paid on the loan taken from the bank is deducted. The net amount of interest contemplated by Section 80AB should take in the net amount arrived at after meeting the expenses deductible from that item under the provisions of the Act as explained above. That is not the case here. Therefore, Section 80AB has no application to the facts of these cases. The interest paid on the loan transactions has to be deducted from the business income, and not from the interest received from the bank on the fixed deposits. The assessee were therefore right in the submissions which they made before the Commissioner of Income-tax in the revision petitions which they filed. This aspect of the matter has been overlooked by the Commissioner in passing the order, exhibit P-5.'

8.1 Similarly, in the case of *Doaba Co-operative Sugar Mills Ltd (supra)*, the Punjab & Haryana High Court has held as under:

'5. The contention of Mr. Gupta, learned counsel appearing for the Revenue, is that the Tribunal was wrong in allowing deduction under Section 80P(2) (d) of the Act because it is not established that the assessee had derived the interest by investing all the amount of surplus funds. It is further contended by Mr. Gupta that the assessee has

paid interest to Jalandhar Central Co-operative Bank and has also received interest from the said co- operative bank, thereby showing that the assessee has on the aggregate paid interest to the bank and, therefore, no deduction under Section 80P(2)(d) can be allowed. To appreciate this argument, we have to look to the provisions of Section 80P(2)(d) of the Act, For facility of reference, it is reproduced as under :

"80P. (2)(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co- operative society, the whole of such income."

6. So far as the principle of interpretation applicable to a taxing statute is concerned, we can do no better than to quote the by-now classic words of Rowlatt J., in *Cape Brandy Syndicate v. IRC* [1921] 1 KB 64, 71 :

"...In a taxing Act, one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used,"

7. The principle laid down by Rowlatt J., has also been time and again approved and applied by the Supreme Court in different cases including the one, *Hansraj Gordhandas v. H. H. Dave, Assistant Collector of Central Excise and Customs*, AIR 1970 SC 755, 759.

8. Section 80P(2)(d) of the Act allows whole deduction of an income by way of interest or dividends derived by the co-operative society from its investment with any other co-operative society. This provision does not make any distinction in regard to source of the investment because this Section envisages deduction in respect of any income derived by the co-operative society from any investment with a co-operative society. It is immaterial whether any interest paid to the co- operative society exceeds the interest received from the bank on investments. The Revenue is not required to look to the nature of the investment whether it was from its surplus funds or otherwise. The Act does not speak of any adjustment as sought to be made out by learned counsel for the Revenue. The provision does not indicate any such adjustment in regard to interest derived from the co-operative society from its investment in any other co-operative society. Therefore, we do not agree with the argument advanced by learned counsel for the Revenue. In our opinion, the learned Tribunal was right in law in allowing deduction under Section 80P(2)(d) of the Income- tax Act, 1961. in respect of interest of RS. 4,00,919 on account of interest received from Nawanshal Central Co-operative Bank without adjusting the interest paid to the bank. Therefore, the reference is answered against the Revenue in the affirmative and in favour of the assessee.'

8.2 Moreover, the Bombay High Court in the case of *Bai Bhuriben Lallubhai (supra)* has held that the purpose for which the assessee borrowed money had no connection whether direct or indirect with the income which she earned from the fixed deposit and that she was not entitled to the deduction claimed under Section 12(2). The High Court held that if an assessee had no option except to incur an expenditure in order to make the earning of an income possible, then undoubtedly the exercise of that option is compulsory and any expenditure incurred by reason of the exercise of that option would come within the ambit of section 12(2) of the Indian Income-Tax Act but

where the option has no connection with the carrying on of the business or the earning of the income and the option depends upon personal considerations or upon motives of the assessee, that expenditure cannot possibly come within the ambit of Section 12(2). In the present case, the loan was taken for business purpose more particularly purchase of yarn and not for fixed deposits.

9. In view of the above, the questions raised in the present appeals are answered in favour of the assessee and against the revenue. The order passed by the Tribunal is accordingly quashed and set aside.”

6. Further the Hon’ble Karnataka High Court in case of PCIT and Another vs. Totagars Co-operative Sale Society 392 ITR 0074 as relied upon by the Ld. AR of the assessee as held in para 7 to 11 as under:-

"7. However, the contention being taken by the learned counsel is untenable. For the issue that was before the ITAT, was a limited one, namely whether for the purpose of Section 80P(2)(d) of the Act, a Co-operative Bank should be considered as a Co-operative Society or not? For, if a Co operative Bank is considered to be a Co-operative Society, then any interest earned by the Co-operative Society from a Co-operative Bank would necessarily be deductible under Section 80P(1) of the Act.

8. The issue whether a Co-operative Bank is considered to be a Co-operative Society is no longer res integra. For the said issue has been decided by the ITAT itself in different cases. Moreover the word "Co-operative Society" are the words of a large extent, and denotes a genus, whereas the word "Co-operative Bank" is a word of limited extent, which merely demarcates and identifies a particular species of the genus Co-operative Societies. Co-Operative Society can be of different nature, and can be involved in different activities; the Co-operative Society Bank is merely a variety of the Co-operative Societies. Thus the Co-operative Bank which is a species of the genus would necessarily be covered by the word "Co-operative Society".

9. Furthermore, even according to Section 56(i)(ccv) of the Banking Regulations Act, 1949, defines a primary Co-Operative Society bank as the

meaning of Co-Operative Society. Therefore, a Co-operative Society Bank would be included in the words 'Co-operative Society'.

10. Admittedly, the interest which the assessee respondent had earned was from a Co-operative Society Bank. Therefore, according to Sec. 80P(2)(d) of the I.T. Act, the said amount of interest earned from a Co-operative Society Bank would be deductible from the gross income of the Co-operative Society in order to assess its total income. Therefore, the Assessing Officer was not justified in denying the said deduction to the assessee respondent.

11. The learned counsel has relied on the case of The Totgars Co-operative Sale Society Ltd. Vs. Income Tax. Officer,(supra). However, the said case dealt with the interpretation, and the deduction, which would be applicable under Section 80P(2)(a)(i) of the I.T. Act. For, in the present case the interpretation that is required is of Section 80P(2)(d) of the I.T. Act and not Section 80P(2)(a)(i) of the I.T. Act. Therefore, the said judgment is inapplicable to the present case. Thus, neither of the two substantial questions of law canvassed by the learned counsel for the Revenue even arise in the present case."

6.4 Thus, the Hon'ble High Court has held that the Co-operative Bank is considered to a cooperative society for the purpose of section 80P(2)(d). Accordingly, in view of the decisions as cited (supra), we do not find any error or illegality in the orders of the Ld. CIT(A) to the extent of the allowing the claim of the assessee u/s 80P(2)(d) in respect of interest income from deposits/FDRs with the Co-operative Banks.

6.5 So far as the issue of deduction u/s 80P(2)(c)(ii) in respect of the interest income on the deposits in saving bank with SBBJ the Ld. CIT(A) has neither discussed this issue in the impugned order nor adjudicated separately. The Ld. CIT(A) has considered both the issues together on the presumption that the entire

income is from investments/deposits with Co-operative Banks. Therefore, the issue of deduction u/s 80P(2)(c)(ii) is set aside to the record of the Ld. CIT(A) for fresh adjudication.

7. For the Assessment Year 2014-15 the Revenue has raised the following grounds of appeal:-

"On the facts and in the circumstances of the case the Ld. CIT(A), kota has erred in:-

1. Deleting addition of Rs. 1,72,42,513/- made by disallowing deduction u/s 80P of the Act without appreciating the facts mentioned by the AO in the assessment order;
2. The appellant craves liberty to raise additional ground and to modify/amend the ground of appeal at the time of hearing."

7.1 It is manifest from the grounds raised by the Revenue that it is identical as raised for the AY 2013-14 except the quantum of deduction disallowed by the AO and allowed by the Ld. CIT(A).

7.2 We have heard the Ld. D/R as well as Ld. AR and considered the relevant material on record. As regards the deduction u/s 80P(2)(d) the issue stands decided for the AY 2013-14 and accordingly, the order of the Ld. CIT(A) to the extent of the claim u/s 80P(2)(d) is upheld. We find that for the AY 2014-15 the assessee claimed deduction u/s 80P(2)(c)(ii) of Rs. 20,685/- on account of interest income on saving bank account of SBBJ deduction 80P(2)(d) in respect of the interest on FDRs/ deposits with Co-operative Banks and in respect of rent for letting out from godowns of Rs. 8,61,399/-, The AO disallowed the entire claim of the assessee and the Ld. CIT(A) has allowed the same without discussing each of the claims separately. Therefore, the Ld. CIT(A) has not discussed the issue of deduction u/s 80P(2)(c)(ii)

and accordingly, this issue is common as the issue involved in the AY 2013-14 and hence, the same is set aside to the record of the Ld. CIT(A) for fresh adjudication. Similarly, the Ld. CIT(A) has not discussed and adjudicated the issue of deduction u/s 80P(2)(e) in respect of income from letting out of godowns. Thus, there is no dispute about the allowability of this deduction in respect of the rental income from letting out of the godowns as per section 80P(2)(e) as there is no condition for availing the deduction under this provision. However, since this issue has not been adjudicated by the authorities below therefore, in the facts and circumstances of the fact, we set aside this issue to the record of the Ld. CIT(A) for proper adjudication, after giving an opportunity of hearing to the assessee.

8. Now, we take up **Cross Objections** of the assessee wherein the assessee has raised the following grounds of C.O. for the AY 2013-14 & 2014-15.

Assessment Year 2013-14

- "1. Under the facts and in the circumstances of the case the Ld. CIT(A) has held in holding that deduction under section 80 P of IT Act 1961 is legal one.
2. Other grounds and facts shall be submitted at the hearing time before your honour."

Assessment Year 2014-15

- "1. Under the facts and in the circumstances of the case the Ld. CIT(A) has held in holding that deduction under section 80 P of IT Act 1961 is legal one.
2. Other grounds and facts shall be submitted at the hearing time before your honour."

8.1 As it is apparent from the grounds raised by the assessee in the Cross Objections that no new ground or issue is raised by the assessee, but the Cross

Objections are in the nature of supporting the impugned orders of the Ld. CIT(A). In view of our finding on the revenue's appeal, the C.O filed by the assessee becomes infructuous.

9. In the result, appeals of the Revenue are partly allowed for statistical purpose and Cross Objections of the Assessee are dismissed.

Order pronounced in the open court on 31/01/2018.

Sd/-

(विक्रम सिंह यादव)

(VIKRAM SINGH YADAV)

लेखा सदस्य / Accountant Member

Sd/-

(श्री विजय पाल राव,)

(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

Jaipur

Dated:- 31/01/2018.

Pooja/

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

1. The Appellant- ITO, Bundi.
2. The Respondent – Shree Keshorai Patan Sahakari Sugar Mill, Bundi.
3. The CIT.
4. The CIT (4),
5. The DR, ITAT, Jaipur
6. Guard File (ITA Nos & CO No.418 & 419/JP/2017 and 23 & 24/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar