
Commissioner of Income Tax Vs Nainital District Co-operative Bank

None

Court: Uttarakhand High Court

Date of Decision: March 9, 2007

Acts Referred:

Income Tax Act, 1961 " Section 256, 80P

Citation: (2008) 215 CTR 242

Hon'ble Judges: P.C.Verma, J; Dharam Veer, J

Bench: Division Bench

Judgement

1. This is an application u/s 256(1) of the IT Act, 1961 arising out of order dt. 28th Feb., 1990 passed by Tribunal, Bench "(E)", New Delhi. The

dispute relates to the asst. yr. 1982-83.

2. Brief facts of the case giving rise to this appeal are that the assessee is a co-operative society engaged in the business of banking. The assessee

for the assessment year in question showed income of Rs. 21,578 and claimed the same to be exempted u/s 80P(2) of the IT Act on the ground

that it related to banking activities. The ITO did not accept the claim of the assessee and made an assessment on total income of Rs. 17,980. Being

aggrieved, the respondent bank preferred appeal before CIT(A). The CIT(A) after perusing the record allowed the claim of the assessee of

exemption following the earlier order of the Tribunal dt. 4th Jan., 1985 in the own case of the assessee in ITA No. 319/Del/1984 for the asst. yr.

1980-81. Feeling aggrieved, the Department went in appeal before the Tribunal. The Tribunal after perusing the entire material available with it

dismissed the appeal of the assessee. Therefore, the following question of law has been sent to be answered by this Court:

Whether on the facts and in the circumstances of the case, the Tribunal was in law justified in holding that the assessee's rental income was

exempted u/s 80P of the IT Act. 1961?

We have heard learned Counsel for the parties and perused the entire material available with us. Section 80(P) of the IT Act, 1961 deals with the

deduction in respect of income of co-operative societies. Sub-clause (i) of Clause (a) of Sub-section (2) of Section 80(P) provides for deduction

in respect of income of co-operative societies which are engaged in carrying on the business of banking or providing credit facilities to its members.

The said subsection clearly provides that only the banking business is exempted and not any other income is exempted. In the present case also,

the assessee derived the income from the house property and not from the banking business, therefore, the assessee cannot be exempted from the

income derived by house property. The ITO in this regard has also rightly recorded the finding that scrutiny of the details filed shows that the

assessee received income from house property amounting to Rs. 21,578. This income does not fall under the head income from business of

banking and as such it is liable to tax under the head income from house property.

3. In view of the above, the order passed by the ITO is sustained and orders passed by the CIT(A) as well as by the Tribunal are hereby quashed.

The question framed is accordingly answered in favour of the Department and against the assessee. The reference application is disposed of

accordingly.