IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

TAX APPEAL NO.31 OF 2005

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik.

...APPELLANT

VERSUS

The Chalisgaon People's Coop. Bank Ltd.,
Sadar Bazar, Dr. Rajendra Prasad Road,
Chalisgaon, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.32 OF 2005

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik.

...APPELLANT

VERSUS

The Chalisgaon People's Coop. Bank Ltd.,
Sadar Bazar, Dr. Rajendra Prasad Road,
Chalisgaon, Dist-Jalgaon.

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TAX APPEAL NO.33 OF 2005

The Commissioner of Income Tax-II,
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The Chalisgaon People's Coop. Bank Ltd.,
Sadar Bazar, Dr. Rajendra Prasad Road,
Chalisgaon, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.34 OF 2005

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik.

...APPELLANT

VERSUS

The Chalisgaon People's Coop. Bank Ltd.,
Sadar Bazar, Dr. Rajendra Prasad Road,
Chalisgaon, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.36 OF 2005

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik.

...APPELLANT

VERSUS

The Chalisgaon People's Coop. Bank Ltd.,
Sadar Bazar, Dr. Rajendra Prasad Road,
Chalisgaon, Dist-Jalgaon.

...RESPONDENT

...

Mr.Alok Sharma, Standing Counsel for Appellant.
Mr.P.S. Gaikwad Advocate for Respondent.

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CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.

DATE : 23RD MARCH, 2015

ORDER :

1. Mr. Sharma, learned counsel for Appellant states that the income byway of interest generated on the deposits made in National Saving Certificates and Kisan Vikas Patras cannot be treated as income forming part of the banking business and as such the same is not exempted under Section 80-P(2)(a)(i) of the Income Tax Act. Learned counsel relies on the Judgment of the Apex Court in the case of **Madhya Pradesh Cooperative Bank Ltd. vs. Additional C.I.T. 1996(218) I.T.R. 438.** Learned counsel submits that even assessee had admitted the same as investments as such not entitled to resile. According to learned counsel, the Tribunal has wrongly considered the whole issue.

2. Learned counsel for Respondent submits

that the Tribunal has rightly considered that the said deposit is concerned with the banking business and as such the assessee is entitled for exemption under Section 80-P(2)(a)(i) of the Income Tax Act. Learned counsel for Respondent relies on the Judgment of the Apex Court in a case of **Commissioner of Income Tax vs. Karnataka State Co-operative Apex Bank, [2001] 251 I.T.R. 194 (S.C.),** so also the Judgment of the Division Bench of this Court in a case of **Commissioner of Income Tax vs. Ratnagiri Dist. Central Co-operative Bank Ltd., 2002(1) Mh.L.J. 892.**

3. In all these matters the Respondent Bank had invested its funds in National Saving Certificates and Kisan Vikas Patras. The Division Bench of this Court in the case of **Commissioner of Income Tax vs. Ratnagiri Dist. Central Co-operative Bank Ltd.,** referred supra, had considered the aspect as to whether the deposits

of the said funds had an effect of temporary withdrawal of the funds and the investments made in I.V.P. could be brought within meaning of banking business. In the present matters also nowhere the Assessing Officer or any of the Authority has dealt on this aspect. No enquiry in this behalf was made by the Authorities below. It was obligatory on the part of fact finding Authorities to make an inquiry and arrive at findings. No such attempt was made.

4. The Division Bench of this Court in the case of **Commissioner of Income Tax vs. Ratnagiri Dist. Central Co-operative Bank Ltd.,** referred supra, considered income by way of interest derived by assessee formed part of banking business and therefore entitled for exemption under Section 80-P(2)(a)(i) of the Income Tax Act. The Judgment of the Apex Court in a case of **Madhya Pradesh Cooperative Bank Ltd. vs. Additional C.I.T.,** referred supra, relied on by the

Appellant has been over-ruled by the Apex Court in the subsequent Judgment in the case of **Commissioner of Income Tax vs. Karnataka State Co-operative Apex Bank,** referred supra. In the said case, the Apex Court came to the conclusion that interest income arising from investment made out of reserve fund is exempted under Section 80-P(2)(a)(i) of the Income Tax Act.

5. Considering the aforesaid aspects of the matters, no fault can be found in the findings arrived at by the Tribunal. As such all the Appeals are dismissed. No costs.

[A.I.S.CHEEMA,J.] **[S.V.GANGAPURWALA,J.]**

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