IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 933 OF 2017

Pr. Commissioner of Income Tax-17 .. Appellant
v/s.
M/s. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedhi Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
Ms. Namrata Kasale for the respondent

CORAM : M.S. SANKLECHA & NITIN JAMDAR, J.J.

DATED : 14th OCTOBER, 2019

P.C.

1. This appeal under Section 260A of the Income Tax Act, 1961 (Act) challenges the order dated 20th May, 2016 passed by the Income Tax Appellate Tribunal (Tribunal). This appeal relates to Assessment Year 2010-11.

2. The Revenue urges the following two questions of law for our consideration :-

> *(a) Whether on the facts and circumstances of the case and in law, the Tribunal is correct in holding that assessee is entitled to deduction u/s 80P(2)(a) and (d) of the IT Act, 1961?*

(b) Whether on the facts and circumstances of the case and in law, the Tribunal is right to allow the relief to the assessee by holding that the assessee being Co-operative Credit Society is not a Co-operative Bank hence entitled for deduction u/s 80P(4) of the I.T. Act despite the fact that the assessee is carrying on the banking business and has been categorized as Co-operative Bank / other Bank ?

3. Regarding question (a)

(a) It has not been shown to us that the respondent has in any manner breached Section 80P(2)(a) and (d) of the Act.

(b) Thus, no substantial question of law arises for our consideration. Thus, not entertained.

4. Regarding question (b) :-

(a) We find that the issue raised herein was a subject matter of consideration by this Court in ***Commissioner of Income Tax Vs. Shri Kulswami Co-op. Credit Society Ltd.*** (Income Tax Appeal No.1682 of 2014, decided on 20th March, 2017) wherein identical issues raised by the Revenue were not entertained. This as it did not give rise to any substantial question of law.

(b) It is pertinent to note that the impugned order of the Tribunal dismissed the Revenue's appeal before it by relying upon the decision of its co-ordinate bench in the case of Kulswami Co-operative Society (ITA Nos. 3223/Mum/2011 for Assessment Year 2007-08 and ITA No.505/Mum/2012 for Assessment Year 2008-09).

(c) Thus, the for the reasons indicated in our order dated 20th March, 2017, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

5. The appeal is dismissed.

(NITIN JAMDAR, J.) **(M.S. SANKLECHA, J.)**