OD-9

ITA/85/2019

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-12, KOLKATA

-Versus-

M/S. THE RESERVE BANK EMPLOYEES CO-OPERATIVE CREDIT SOCIETY LTD.

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 6th December, 2023

Appearance:
Mr. Soumen Bhattacharjee, Adv.
...for the appellant.

Mr. Siddhartha Das, Adv.
Ms. Swapna Das, Adv.
...for the respondent.

1. Heard Mr. Soumen Bhattacharjee, learned standing counsel for the appellant/Income Tax Department and Mr. Siddhartha Das, learned counsel assisted by Ms. Swapna Das, learned advocate for the respondent/assessee.

2. This appeal has been admitted by an order dated 18th July, 2019 on the following substantial question of law:

   "Whether on the facts and in the circumstances of the case the interest income earned by the assessee is eligible for deduction under Section 80P and in

particular Section 80P(2)(a)(i) of the Income Tax Act, 1961 and whether the tribunal committed an error in law in not appreciating the law in subject ?"

3. The CIT(Appeal) allowed the appeal of the assessee holding that the interest earned by the assessee such as the one at hand, namely a Credit Co-operative Sale Society that carries on business of providing credit facilities to its members and earned interest by deposits made in nationalised banks, would be eligible for deduction under Section 80P(2)(a)(i) of the Income Tax Act, 1961. The appellant herein i.e., Income Tax Department filed an appeal being ITA No.2253/Kol/2016 (assessment year 2013-14).
4. In paragraph 10 of the impugned order the Tribunal held that the order of the CIT(A) on the aforesaid issue has to be upheld and, consequently, the Ground No.1 raised by the revenue is accordingly dismissed.
5. Aggrieved by the order of the Income Tax Appellate Tribunal, the revenue has filed the present appeal which has been admitted on the above quoted substantial question of law.
6. We find that the substantial question of law as raised in this appeal is squarely covered by a recent judgment of the Hon'ble Supreme Court in the case of **Kerala State Co-**

Operative Agricultural & Rural Development Bank Ltd. Vs. Assessing Officer reported in (2023) 154 taxmann.com 305 (SC). Both the learned counsel for the parties also jointly agree that the substantial question of law, as above quoted, is squarely covered by the judgment of the Hon'ble Supreme Court and, in view thereof, the substantial question of law needs to be answered in favour of the assessee and against the revenue and the appeal needs to be dismissed.

7. In view of the aforesaid, the substantial question of law, as framed above, is answered in favour of the assessee and against the revenue in terms of the law laid down in the judgment of the Hon'ble Supreme Court in the case of Kerala State Co-Operative Agricultural & Rural Development Bank Ltd. *(supra)*.

8. Consequently, the appeal (ITA/85/2019) is dismissed.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.