

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8719/2022

THE PR. COMMISSIONER OF INCOME TAX 17, MUMBAI APPELLANT(S)

VERSUS

M/S ANNASAHEB PATIL MATHADI KAMGAR SAHAKARI
PATHPEDI LIMITED RESPONDENT(S)

O R D E R

Feeling aggrieved and dissatisfied with the impugned order dated 14-10-2019 passed by the High Court of Judicature at Bombay in ITA No.933/2017, by which the High Court has dismissed the said appeal preferred by the Revenue, relying upon its earlier decision in the case of M/s. Quepem Urban Co-operative Credit Society Ltd. Vs. Assistant Commissioner of Income Tax, 377 ITR 272, the Revenue has preferred the present appeal.

The High Court considered the following question of law -

"Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified as claimed by the assessee on the ground that the assessee, a co-operative credit society and is not a bank for the purpose of Section 80P(4) of the Act?"

Apart from the fact that against the relied upon decision in the case of M/s. Quepem Urban Co-operative Credit Society Ltd. (supra), the Special Leave Petition has been dismissed, having heard

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learned counsel appearing on behalf of the respective parties, the issue involved in the present appeal is squarely covered against the Revenue in view of the decision of this Court in *Mavilayi Service Cooperative Bank Limited and Others Vs. Commissioner of Income Tax, Calicut and Another* (2021) 7 SCC 90. This Court, in the aforesaid decision has specifically observed and held that primary Agricultural Credit Societies cannot be termed as Co-operative Banks under the Banking Regulation Act and, therefore, such credit societies shall be entitled to exemption under Section 80(P)(2) of the Income Tax Act, 1961.

Ms. Aakansha Kaul, learned counsel appearing on behalf of the appellant/Revenue has tried to submit that the respondent/Assessee will fall under the definition of Co-operative Bank as their activity is to give credit/loan. However, it is required to be noted that merely giving credit to its members only cannot be said to be the Co-operative Banks/Banks under the Banking Regulation Act. The banking activities under the Banking Regulation Act are altogether different activities. There is a vast difference between the credit societies giving credit to their own members only and the Banks providing banking services including the credit to the public at large also.

There are concurrent findings recorded by CITA, ITAT and the High Court that the respondent/Assessee cannot be termed as Banks/Cooperative Banks and that being a credit society, they are entitled to exemption under Section 80(P)(2) of the Income Tax Act.

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Such finding of fact is not required to be interfered with by this Court in exercise of powers under Article 136 of the Constitution of India. Even otherwise, on merits also and taking into consideration the CBDT Circulars and even the definition of Bank under the Banking Regulation Act, the respondent/Assessee cannot be said to be Co-operative Bank/Bank and, therefore, Section 80(P)(4) shall not be applicable and that the respondent/Assessee shall be entitled to exemption/benefit under Section 80(P)(2) of the Income Tax Act.

In view of the above and for the reasons stated hereinabove, the present appeal deserves to be dismissed and is accordingly dismissed, answering the question against the Revenue and in favour of the Assessee.

The Appeal is accordingly dismissed. No costs.

..... J.
(M.R. SHAH)

..... J.
(C.T. RAVIKUMAR)

New Delhi;
April 20, 2023.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8719/2022

THE PR. COMMISSIONER OF INCOME TAX 17, MUMBAI Appellant(s)

VERSUS

M/S ANNASAHEB PATIL MATHADI KAMGAR SAHAKARI
PATHPEDI LIMITED Respondent(s)(IA No. 36473/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 20-04-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE C.T. RAVIKUMARFor Appellant(s) Mr. Balbir Singh, A.S.G. (Not present)
Ms. Aakansha Kaul, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Akshay Amritanshu, Adv.
Mr. Ashok Panigrahi, Adv.
Ms. Niranjna Singh, Adv.
Mr. Rupender Singhmar, Adv.
Mr. Naman Todon, Adv.For Respondent(s) Mr. Sachin Patil, AOR
Mr. Geo Joseph, Adv.
Mr. Risvi Muhammed, Adv.
Mr. Durgesh Gupta, Adv.
Mr. C. Aravind, Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(signed order is placed on the file)