

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B' : NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA Nos.2984/Del/2013 & 2985/Del/2013
Assessment Years : 2009-10 & 2007-08

M/s District Cooperative
Bank Limited,
Civil Lines-II,
Bijnor.
PAN : AABFD2205R.
(Appellant)

Vs. Assistant Commissioner of
Income Tax,
Najibabad.
(Respondent)

Appellant by : Shri P.S. Kashyap, CA.
Respondent by : Smt. Parwinder Kaur, Sr.DR.

ORDER

PER G.D. AGRAWAL, VP :

These appeals by the assessee are directed against the order of learned CIT(A), Bareilly dated 1st March, 2013 for the AY 2009-10 & 2007-08.

2. The only ground raised in both these appeals by the assessee is for seeking exemption of dividend received by the assessee cooperative society amounting to ₹70,56,000/- for AY 2007-08 and ₹3,06,200/- for AY 2009-10.

3. Since the facts in both the years are almost similar, we shall deal herein below the facts relating to AY 2007-08.

4. For the year under consideration, the assessee received the dividend of ₹70,56,200/- from the following three companies:-

- | | | |
|-------|--------------|----------------------|
| (i) | ₹67,50,000/- | U.P. Coop. Bank Ltd. |
| (ii) | ₹1,00,000/- | KRIBHCO |
| (iii) | ₹2,06,200/- | Indian Fertilizers. |

5. The assessee claimed the same to be exempt which was denied by the Assessing Officer and learned CIT(A). Hence, this appeal by the assessee.

6. We have heard the arguments of both the sides and perused relevant material placed before us. At the time of hearing before us, learned counsel fairly conceded that the dividend is not exempt under Section 10(34) read with Section 115-O because the companies from whom the assessee received the dividend has not paid dividend distribution tax. His claim is that the dividend received by the assessee company is exempt on account of mutuality because those companies which paid dividend to the assessee are also either cooperative banks or the companies which are basically rendering services to the cooperative societies. We are unable to accept the contention of the assessee. When the assessee claims any exemption on the ground of mutuality, the burden is upon the assessee to establish so. In this case, the learned counsel could not justify how the dividend received by the assessee from three different companies is covered under the concept of mutuality. The assessee has received the dividend on account of assessee's investment in those companies. The dividend is not the contribution to the assessee by those companies and moreover, the assessee is not rendering services to them. In view of the above, we hold that the assessee's contention that dividend received from those companies is exempt on account of mutuality is untenable. The same is rejected.

7. The facts are similar in AY 2009-10 with the only difference in the quantum of dividend which is ₹3,06,200/- instead of ₹70,56,000/- in AY 2007-08. For the detailed discussion in paragraph 6 above, we hold that the dividend received in AY 2009-10 also cannot be said to be exempt within the concept of mutuality. Accordingly, the appeals of the assessee in both the years are dismissed.

8. In the result, the appeals of the assessee are dismissed.
Decision pronounced in the open Court on 8th August, 2014.

Sd/-

**(CHANDRA MOHAN GARG)
JUDICIAL MEMBER**

Sd/-

**(G.D. AGRAWAL)
VICE PRESIDENT**

Dated : 08.08.2014

VK.

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1. Appellant : **M/s District Cooperative Bank Limited,
Civil Lines-II, Bijnor.**
2. Respondent : **Assistant Commissioner of Income Tax,
Najibabad.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar