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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 74/2023, CM Nos.6315/2023 & 6418/2023**

ISPAT EMPLOYEES COOPERATIVE THRIFT
AND CREDIT SOCIETY LTD.

..... Appellant

Through: Mr Salil Kapoor, Advocate.

versus

PR. COMMISSIONER OF INCOME
TAX-18 NEW DELHI

..... Respondent

Through: Mr Sanjay Kumar, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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03.03.2023

[Physical Hearing/Hybrid Hearing (as per request)]

CM No.6418/2023

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

ITA 74/2023 & CM Nos.6315/2023 [Application filed on behalf of the appellant seeking condonation of delay of 311 days in re-filing the appeal]

2. The appellant is a thrift and credit society. The appellant has been denied deduction under Section 80P(2)(a)(i) of the Income Tax Act, 1961 [in short, "the Act"].

3. Mr Salil Kapoor, who appears on behalf of the appellant, says that deduction ought to have been given, in view of the fact that the appellant was compulsorily required to carry 1/4th of its net profits to the reserve fund.

3.1 It is Mr Kapoor's contention that it is this amount which was invested

ITA 74/2023

page 1 of 2



in fixed deposits. It is this interest [which was earned on fixed deposits] which has been treated by the Assessing Officer (AO) as not being deductible under Section 80P(2)(a)(i) of the Act.

4. Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the respondent/revenue, says that this issue is covered by the judgment of the Supreme Court rendered in *Totgars' Cooperative Sale Society Ltd. v. Income Tax officer, Karnataka* (2010) 188 Taxmann 282 (SC) and the judgment of the coordinate bench of this court in *Mantola Co-Operative Thrift & Credit Society Ltd. v. Commissioner of Income-tax* (2014) 50 Taxmann.com 278 (Delhi).

4.1. We are told that the *Mantola* case is pending in the Supreme Court and that the SLP has been converted to a Civil Appeal i.e., C.A.666 of 2016.

5. Mr Kapoor, on the other hand, seeks to distinguish the aforementioned judgments.

6. Accordingly, list the appeal on 28.04.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 3, 2023 / tr

[Click here to check corrigendum, if any](#)