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C.A.No. 7448 OF 2000  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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PART-HEARD@@  
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ITEM No.101 COURT No. 2 SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No. 7448 of 2000@@  
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Mehsana District Central Coop. Bank Ltd. Appellant

VERSUS

Income Tax Officer, Gujarat Respondent  
(With appln.(s) for interim relief and office report)

With C.A. No. 7449/2000 - With appln.(s) for interim relief and office report  
C.A.Nos.292-298 of 2001 - With appln.(s) for interim relief, permission to file Vol.II & III and office report

Date : 30/08/2001 These appeals were called on for hearing today

CORAM :  
HON'BLE MR. JUSTICE S.P. BHARUCHA  
HON'BLE MR. JUSTICE Y.K. SABHARWAL  
HON'BLE MR. JUSTICE ASHOK BHAN

For Appellant (s) Mr. Ashok H. Desai, Sr. Adv.  
Mr. Anil B. Divan, Sr. Adv.  
Mr. K.H. Kaji, Adv.  
Mr. Manish Kaji, Adv.  
Mr. P.H. Parekh, Adv.  
Ms. Indoo Verma, Adv.  
Ms. Ruchi Khurana, Adv.

For Respondent(s) Mr. M.L. Verma, Sr. Adv.  
Ms. Neera Gupta, Adv.  
Mr. K.C. Kaushik, Adv.  
Mr. B.V. Balaram Das, Adv.

UPON hearing counsel the Court made the following  
O R D E R

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J  
Application for permission to file Volume Nos.II and III is allowed.

The civil appeals are allowed.

No order as to costs.

(T.I. Rajput)  
Court Master

(Shelly Sengupta)  
Court Master

(Signed order is placed on the file)

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.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 7448 of 2000@@  
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Mehsana District Central Coop. Bank Ltd. ...Appellant (s)

Versus~

Income Tax Officer, Gujarat ....Respondent (s)

With Civil Appeal Nos.292-298 of 2001 and 7449 of 2000@@  
CC

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

.SP2

Civil Appeal Nos.292-298 of 2001:@@  
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We are concerned in these appeals with the Assessment  
Years 1988-89 to 1994-95.

The High Court re-framed the questions that arise in  
these appeals thus:

.....L.....T.....T.....T.....T.....T.....T.....J

.SP1

"(1) Whether the Tribunal was right in law in disallowing the claim of the assessee bank for deduction under Section 80P(2)(a)(i) in respect of income earned from utilization of its reserve funds being statutory reserves under Section 67(2) of the Gujarat Co-operative Societies Act, 1961?

(2) Whether the assessee bank is entitled to claim deduction under Section 80P(2)(a)(i) in respect of income earned from utilization of its voluntary reserves other than the statutory reserves mentioned above?

(3) Whether the Tribunal was right in law in holding that the locker rent is not deductible under Section 80P(2)(a)(i)?

....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

Insofar as the first question is concerned, it is covered against the Revenue by the judgment delivered by this court on 22nd August, 2001 in Commissioner of Income Tax,@@  
CC  
Karnataka-III vs. Karnataka State Cooperative Apex Bank@@  
CC  
(Civil Appeal Nos.4646-4648 of 2000). The first question, therefore, is answered in the negative and in favour of the assessee.

Insofar as the third question is concerned, it is clear that the provision of safe deposit vaults is part of the ordinary banking business of a bank; this is shown by Section 6(1)(a) of the Bank Regulation Act, 1949. Therefore, the income derived by the assessee from the hiring out of safe deposit vaults is income from the business of banking and, therefore, deductible under Section 80-P(2)(a)(i) of the Income Tax Act, 1961. Accordingly, the third question is answered in the negative and in favour of the assessee.

Now, as to the second question. We have learned learned counsel and been referred to various decisions, including the decision of this court in Bihar State@@  
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Cooperative Bank Limited vs. Commissioner of Income Tax (39@@  
CC  
I.T.R. 114). To be able to answer the question, it is necessary to ascertain, as a fact, whether the income derived  
...3/-

by the assessee from the investment of its voluntary reserves has been utilised by it in the course of its ordinary banking business. Though the assessee placed before the assessing authority its books of account and balance sheets, the fact afore-stated was not considered at any stage, for one or other reason on which it is not necessary for us to dilate. We think that it is in the interests of justice that the assessee should have the opportunity to lead evidence before the Commissioner (Appeals) to establish as a fact what is stated above. So far as the second question is concerned, therefore, the matter is stand restored to the Commissioner (Appeals) for being decided afresh. He shall also decide any consequential issue that may arise.

Order on the appeals accordingly.  
No order as to cost.

Civil Appeal Nos.7448 and 7449 of 2000:@@  
CC  
The only question in these appeals reads thus:  
.....L.....T.....T.....T.....T.....T.....T.....T.....J  
.SP1

"Whether in the facts and circumstances of the case, ITAT was right in law in holding that the assessee is not eligible for deduction under section 80P in respect of interest income on its total reserve, and in holding so, ignoring its own decision as also the judgments of the Rajasthan High Court and the Supreme Court?"

....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2  
...4/-

