

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE 'B' BENCH, BANGALORE**

**BEFORE SHRI N.V.VASUDEVAN, JUDICIAL MEMBER
AND
SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

**ITA No.437(BNG.)/2014
(Assessment year : 2008-09)**

M/s Shri Siddasiri Pattin Suharda Sahakari Niyami,
S.S.Road,
Bijapur

PAN No.AAAJS3372F

Appellant

Vs

The Asst. Commissioner of Income-tax,
Circle-1,
Bijapur

Respondent

**Assessee by : Shri Sukesh Patil, CA
Revenue by : Shri P.K.Srihari, Addl.CIT**

**Date of hearing : 02-02-2015
Date of pronouncement : 20-02-2015**

ORDER

PER SHRI ABRAHAM P GEORGE, AM;

In this appeal filed by the assessee its grievance is that AO denied deduction of Rs.9,24,543/- u/s 80P(a)(i) of the IT Act, on the reasoning that such amount was interest from investments, which income fell under the head "Income from other sources".

2. When the case came up before us, learned counsel for the assessee submitted that the lower authorities erred in applying the

judgments of the Hon'ble Apex Court in the case of Totagar's Co-operative Sales Society Ltd. Vs CIT 322 ITR 283. According to the learned AR, assessee was in the business of providing credits to its members and therefore, interest arising to it on deposits with bank was attributable to such credit business. Learned AR further submitted that the amounts which were held in deposits with bank were not out of profits or surplus but out of deposits received from the members.

3. Per contra, learned DR submitted that the Hon'ble Apex Court in the case of M/s Totagar's Co-operative Sales Society Ltd. (Supra) had held that income attributable to the business of a Co-operative Society would be eligible under section 80P(2)(a) only if it fell under any of the clause mentioned therein. Interest from deposit held with bank was nothing but "Income from other sources". According to him, lower authorities were justified in denying deduction u/s 80P(2)(a)(i) of the Act on such interest income.

4. Adlibitum reply of the learned AR was that the issue stood decided by the Hon'ble jurisdictional High Court in the case of Sri

Renukadevi Urban Credit Co-operative Society Ltd, Belgaum in ITA No.5002/2009 01-04-2011.

5. We have perused the orders and heard the rival contentions. There is no dispute that the assessee was in the line of credit business and its claim was under section 80P(2)(a)(i) of the Act. In the case of M/s Renukadevi Urban Credit Co-operative Society Ltd. Hon'ble jurisdictional High Court in their judgment dated 01-04-2011 held as under, at paras 4 to 7 of its order.

“ 4. It is necessary at this juncture to notice Section 80P(2)(a)(i) of the Income-tax Act and the same reads as under;

Section 80P Deduction in respect of income of co-operative Societies

1)

2) *The sum referred to in sub-section (1) shall be the following namely.*

a) In the case of a co-operative society engaged in

(i) Carrying on the business of banking or providing credit facilities to its members or

5. A reading of the above provision specifies that the assessee is entitled for deduction on the interest earned from the business of banking. The word '*Banking*' is not defined in the Income-tax Act. Therefore, it is necessary for us to take into consideration the definition clause in

the *Banking Regulation Act, 1949* wherein Section 5(b) defines Banking as under;

b) “banking” means the accepting for the purpose of lending or investment of deposits of money from the public repayable on demand or otherwise and withdrawable by cheque drat order or otherwise.

6. From this definition, it is manifest that deposit of money which earns interest falls under the definition of “Banking”. In the instant case, the assessee had the excess money with them which was not taken by its shareholders. Instead of keeping money idle with assessee, they have deposited the same in a private limited company so that it can earn interest. In the instant case, the appellant assessee deposited the same in a private limited company namely *M/s Renuka Sugars Ltd.*

7. This Court in identical circumstances, in *Commissioner of Income Tax and Another Vs Grain Merchants Co-operative Bank Ltd.* reported in 2004 ITR(Kar) 267 Page 742 held that the interest earned on the deposits made by the assessee in any banking activity is exempted under section 80P of the Income Tax Act. Therefore, for the reasons stated above, we answer the quantum of law framed above in favour of the assessee/appellant and against the Revenue. Ordered accordingly”.

6. We are of the opinion that in view of the above mentioned judgment and the Hon'ble jurisdictional High Court the assessee has to succeed in this appeal.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on the 20th February, 2015.

Sd/-
(N.V.VASUDEVAN)
JUDICIAL MEMBER
Bangalore:
D a t e d : 20-02-2015
am
Copy to :

Sd/-
(ABRAHAM P GEORGE)
ACCOUNTANT MEMBER

Appellant
Respondent
CIT(A)-IV, Bangalore.
CIT
DR, ITAT, Bangalore.
Guard file (1+1)

Asst. Registrar

ITAT, Bangalore