

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

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**ITA No.1210(BNG)/2015
(Assessment year : 2012-13)**

The Income-tax Officer,
Ward-1,
Bagalkot

Appellant

Vs

M/s Gayatri Sahakari Sangh Niyamit,
Near Banshankari Temple, Sulebhavi,
Tq. Hungund.
Dist. Bagalkot

Respondent

**Revenue by : Dr.P.K.Srihari, Addl.CIT
Assessee by : Smt Pratibha, Advocate**

**Date of hearing : 09-12-2015
Date of pronouncement : 11-12-2015**

ORDER

PER SHRI INTURI RAMA RAO, AM :

This appeal by the revenue is directed against the order of the CIT(A),
Belagavi dated 05-06-2015 for the assessment year 2012-13.

2. The revenue raised the following grounds of appeal;

“1. The ld.CIT(A) erred in law and on facts in not appreciating the fact that the assessee is a co-operative society which fulfills all the three conditions of being held a primary co-op. bank, as specified in sec.5(CCV) of the banking regulation Act, 1949.

2. *The ld.CIT(A) erred in law and on facts in not appreciating the definition of a co-op.bank, wherein the explanation to sec.80p(4) of the IT Act clarifies that the co-op. bank shall have the meaning assigned to it in part-V of the Banking Regulation Act, 1949.*

3. *The ld.CIT(A) erred in law and on facts in not appreciating the fact that the assessee society being a credit co-op. society which is engaged in banking business is a primary co-op. bank within the definition of sec.5(ccv) of the Banking Regulation Act, 1949 and as such, is not eligible for deduction u/s 80P(2)(i) of the IT Act, 1961.*

4. *The ld. CIT(A) erred in not appreciating the facts of the case and also relying upon the decision of the High Court of Karnataka in CIT Vs Sri Biluru Gurubasava Pattin Sahakari Sangh Niyamitt, Bagalkot in ITA No.5006/2013 dated 5.2.2014 and other decisions, ignoring the decision of the ITAT, Panaji Bench. The Hon'ble Bench in the case of Sri Durdundeshwar was urban co-op.credit society Ltd. has upheld the stand of the department and has categorically distinguished the decision of Sri Biluru Gurubasava Pattin Sahakari Sangh Niyamit, in various cases of co-op. societies”.*

3. The assessee is a Co-operative Society registered under the provisions of Karnataka State Co-operative Act, 1959 filed its return of income for the assessment year 2012-13 on 24-09-2012, declaring the total

income at 'NIL' after claiming deduction a sum of Rs.26,53,250/- u/s 80P(2)(a)(i) of the Act. Against the said return of income, the assessment was completed u/s 143(3) of the Act, vide order dated 18-10-2014 the AO had disallowed the assessee's claim for deduction u/s 80P(2)(a)(i) of the Act and determined the total income at Rs.26,53,250/-.

4. Aggrieved by this order an appeal was preferred before the learned CIT(A), who vide impugned order allowed the appeal following the decision of the jurisdictional High Court, by holding as under;

“ 8.2 The fact that the assessee is a co-operative society registered under the Karnataka Co-Op. Societies Act, 1959 engaged in providing credit facilities to its members has been clearly mentioned by the AO in para-3 of his aforesaid assessment order. It is also not the case of the AO that the assessee is registered with the RBI as a bank. In its aforesaid submission dated 22/05/2015 the assessee has clearly stated with the help of necessary evidence and an affidavit dated 21/05/2015 to this effect that the assessee is a co-operative society registered under the Karnataka Co-Op.Societies Act, 1959 engaged in providing credit facilities only to its members and

it does not possess any banking license from the RBI. It is therefore, clear that the assessee's case is squarely covered by the aforesaid decisions of the jurisdictional High Court of Karnataka in the cases of CIT Vs Sri Biluru Gurubasava Pattina Sahakari Sangha Niyamitha, which was followed in the case of General Insurance Employees Cooperative Credit Society Ltd and Karnataka High Court decision in the case of Vasavi Multipurpose Souharda Sahakari Niyamita, ITA No. 505/2013 dated 27/06/2014. Therefore, in view of the foregoing discussion and respectfully following the aforesaid decisions of the jurisdictional High Court of Karnataka, it is held that the assessee's case is not covered by section 80P(4) as it is not a co-operative bank and therefore, it is entitled to the exemption u/s 80P(20(a)(i) of the IT Act".

5. Being aggrieved by the aforesaid order, the revenue is in appeal before us.

6. We have considered the submissions of the learned SR.DR and perused the material available on record. The issue in this appeal is no longer *res-integra*, as the issue was settled by the jurisdictional High Court in the case of CIT Vs Sri Biluru Gurubasava Pattina Sahakari

Sangha Niyamitha and also in the case of Vasavi Multipurpose Souharda Sahakari Niyamita, supra. The learned CIT(A) followed the aforesaid decisions while allowing the appeal. Therefore, we do not find any reason to interfere with the order of the learned CIT(A) hence, we dismiss the appeal filed by the revenue.

7. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on the 11th December, 2015.

Sd/-
(VIJAYPAL RAO)
JUDICIAL MEMBER

Place: Bangalore

D a t e d : 11-12-2015

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

Sd/-
(INTURI RAMARAO)
ACCOUNTANT MEMBER

By order, AR,ITAT, Bangalore