

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.2129/Bang/2016
Assessment year : 2012-13

Income Tax Officer, Ward -7(2)(4), Bengaluru.	Vs.	M/s. Kammavari Credit Co-operative Society Ltd., No.1, 22 nd Main, Jayanagar, HSBC Layout, Padmanabhanagar, Bengaluru – 560 070. PAN : AAAAK 2670 H
APPELLANT		RESPONDENT

Revenue by	:	Smt. Padma Meenakshi, JCIT
Assessee by	:	None

Date of hearing	:	16.11.2017
Date of Pronouncement	:	27.11.2017

ORDER

Per Sunil Kumar Yadav, Judicial Member

This appeal is preferred by the Revenue against the order of CIT(A), *interalia*, on the following grounds:

1. *The order of the learned CIT(A) is opposed to law and facts of the case.*
2. *Whether on the facts and circumstances of the case, the CIT(A) was justified in law in allowing deduction u/s.80P(2)(a)(i) of the Act to the co-operative society carrying on the business of baking, inspite of the fact that clause no.(4) of section 80P inserted with effect from 01. 04.2007 clearly bars the co-operative society from the above deduction, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank".*
3. *Whether on the facts and circumstances of the case, the C1T(A) was justified in law in holding that the assessee is entitled to deduction under section 80P(2) in respect of interest earned from investments by not taking into consideration the judgement of the Hon'ble High Court of Karnataka in the case of M/s. The Totagar Co-operative Sale*

Society Ltd (2010) 188 taxmann 282 "

4. *For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the CIT(A) in so far as it relates to the above grounds may be reversed and that of the Assessing Officer may be restored.*
5. *The appellant craves leave to add, alter, amend and/or delete any of the grounds mentioned above.*

2. This appeal came up for hearing on 16.11.17 but none appeared on behalf of the assessee despite service of notice. We therefore had no option but to hear the appeal ex-parte qua the assessee. Accordingly, the Revenue was heard.

3. During the course of hearing, the learned DR invited our attention to the fact that now the Hon'ble Supreme Court has resolved the controversy on the issue and restored the matter to the AO with certain directions in the case of Citizen Co-operative Society Limited vs. Assistant Commissioner of Income Tax in Civil Appeal No.10245/2017 disposed of on 08.08.2017. Following the judgment of Hon'ble Supreme Court, the jurisdictional High Court has also restored the matter to the AO for readjudication in the light of the directions given by the Hon'ble Supreme Court while adjudicating the issue in the case of Pr.CIT Vs. Vijay Souharda Credit Sahakari Ltd. Therefore, in the interest of justice, the matter should be restored back to the AO for readjudication of the issue after affording opportunity of being heard to the assessee.

4. The learned counsel for the assessee further submitted that CIT(A) has examined all these aspects, therefore there is no need to restore the issue to the AO.

5. Having carefully examined the orders of the lower authorities and the judgments of the Apex Court and High Court, we are of the view that since identical issue was restored back by the jurisdictional High Court and the Supreme Court for readjudication in the light of direction given by the Apex Court, this issue should also go back to the AO for readjudication. Accordingly, we set aside the order of the CIT(A) and restore the matter to

the file of the AO for readjudication of the issue in terms of the directions given by the Apex Court in the case of Citizen Co-operative Society Limited (supra).

6. In the result, appeal of the Revenue is allowed for statistical purposes.

Pronounced in the open court on 27th November, 2017.

Sd/-
(INTURI RAMA RAO)
Accountant Member

Sd/-
(SUNIL KUMAR YADAV)
Judicial Member

Place : Bangalore
Dated : 27/11/2017
/NS/*

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

By order

Sr. Private Secretary,
ITAT, Bangalore.