

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

**Before Shri Chandra Poojari, AM & Shri George George K, JM**

ITA No.574/Coch/2017 : Asst.Year 2007-2008  
ITA No.575/Coch/2017 : Asst.Year 2008-2009  
ITA No.576/Coch/2017 : Asst.Year 2011-2012  
ITA No.577/Coch/2017 : Asst.Year 2012-2013  
ITA No.578/Coch/2017 : Asst.Year 2013-2014

The Secretary, The Panathady Service Co- operative Bank Limited P.O. Rajapuram Kasargode - 671 532 <b>PAN : AAABT2424K.</b>	Vs.	The Income Tax Officer Ward 2 Kasargode.
(Appellant)		(Respondent)

Appellant by : Sri.H.S.Bhatt  
Respondent by : Sri. A.Dhanaraj, Sr.DR

<b>Date of Hearing : 12.07.2018</b>	<b>Date of Pronouncement : 23.07.2018</b>
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**ORDER**

**Per Bench**

These appeals at the instance of the assessee are directed against the consolidated order of the CIT(A) dated 15.07.2017. The relevant assessment years are 2007-2008, 2007-2008, 2011-2012, 2012-2013 and 2013-2014. Since common issues are raised in these cross appeals, they were heard together and are being disposed off by this consolidated order.

2. The common issue that is raised in all these five appeals is whether the trade income and income from CAMPCO is entitled to deduction u/s 80P(2)(a) of the Income-tax Act, 1961.

3. The brief facts in relation to the above issue are as follows:

The assessee is a primary agricultural credit society registered under the Kerala Co-operative Societies Act, 1969. For the assessment years 2007-2008, 2008-2009, 2011-2012, 2012-2013 and 2013-2014, the returns were filed claiming deduction u/s 80P(2) of the I.T.Act. The assessments were completed for the concerned assessment years by denying the deduction claimed u/s 80P(2) of the I.T.Act. The reason of the Assessing Officer to deny the benefit of deduction u/s 80P(2) of the I.T.Act was that the assessee was primarily engaged in the business of banking and by virtue insertion of section 80P(4) of the I.T.Act with effect from 01.04.2007, the assessee was not entitled to deduction claimed u/s 80P(2) of the I.T.Act.

4. Aggrieved by the assessments completed for the concerned assessment years, the assessee had preferred appeals to the first appellate authority. The CIT(A) following the judgment of the Hon'ble jurisdictional High Court in the case of *The Chirakkal Service Co-operative Bank Ltd. and Others [(2016) 384 ITR 490 (Ker.)]* held that the assessee was entitled to the benefit of deduction u/s 80P(2) of the Act.

However, with regard to the trade income and income received from CAMPCO, the CIT(A) denied the benefit of deduction u/s 80P(2) of the I.T.Act. [Para 7 of the impugned order of the CIT(A)].

5. Aggrieved by the order of the CIT(A), the assessee has filed the present appeals before the Tribunal. The learned AR submitted that the trade income was earned by the assessee-society on purchase and sale of agricultural implements, seeds, livestock or other articles for supplying them to its members. Further it was submitted that income received by the assessee-society from CAMPCO was for marketing of agricultural produce of its members. Therefore, it was submitted that such income was entitled to deduction u/s 80P(2)(a)(iii) and (iv) of the I.T.Act. The learned DR present was heard.

6. We have heard the rival submissions and perused the material on record. The Assessing Officer has disallowed the entire claim of deduction. There was no specific reasoning given by the assessee nor the CIT(A) for denying the benefit of deduction u/s 80P(2) of the I.T.Act. The trade income according to the assessee was earned by it on account of purchase and sale of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members. Income accrued from CAMPCO according to the assessee was on account of marketing of agriculture produce of its members. Therefore, it

was submitted that such income was entitled to deduction u/s 80P(2)(a)(iii) and (iv) of the I.T.Act. Since the A.O. nor the CIT(A) has not given any specific reasons for denying the benefit of deduction claimed u/s 80P(2) of the I.T.Act, we deem it appropriate to remand the case to the A.O. for fresh consideration. The assessee shall prove with necessary evidence that the trade income it had earned and the income it had received from CAMPCO was entitled to deduction u/s 80P(2) of the I.T.Act.

6.1 As regards the insurance commission assessee had received concerning the assessment years 2011-2012 and 2012-2013, there was no discussion by the A.O. nor the CIT(A) for disallowing the claim of deduction u/s 80P(2). It is the case of the assessee that it had earned commission from United India Insurance for crop insurance where the assessee-society was intermediary between the Insurance company and its members. It was submitted that it is part of the normal business activities of the assessee and was entitled to deduction u/s 80P(2) of the I.T.Act Since there was no discussion by the A.O. nor by the CIT(A), we deem it appropriate to remit the issue to the Assessing Officer for *de novo* consideration. It is ordered accordingly.

7. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 23<sup>rd</sup> day of July, 2018.

Sd/-  
**(Chandra Poojari)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(George George K.)**  
**JUDICIAL MEMBER**

Cochin ; Dated : 23<sup>rd</sup> July, 2018.  
Devdas\*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT (Appeals)-Kozhikode.
4. The Pr.CIT Kozhikode.
5. DR, ITAT, Cochin
6. Guard file.

BY ORDER,

(Asstt. Registrar)  
**ITAT, Cochin**