

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, CHENNAI**  
श्री एन.आर.एस .गणेशन, न्यायिक सदस्य एवं  
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A. No. 1379/Chny/2019**

**निर्धारण वर्ष/Assessment Year : 2016-17**

Income Tax Officer,  
Corporate Ward 3(2),  
Chennai – 600 034.

M/s. Chennai Teachers Guild Co-  
operative Society Ltd.,  
Vs. No. 37, Old No. 19,  
B V Naicken Street Triplicane,  
Chennai 600 005.

**[PAN: AAAAT 8690A]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/Appellant by

: Shri. AR.V. Sreenivasan, JCIT

प्रत्यर्थी की ओर से/Respondent by

: Shri. B. Suresh, CA

सुनवाईकीतारीख/Date of Hearing

: 26.11.2019

घोषणाकीतारीख/Date of Pronouncement

: 20.02.2020

**आदेश/ O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The Revenue filed this appeal against the order of the Commissioner of Income Tax (Appeals)-11, Chennai in ITA No. 43/18-19 dated 21.02.2019 for the assessment year 2016-17.

2. The Revenue filed this appeal with 3 days delay. An affidavit was filed stating that the delay was caused because the regular officer was on election duty and the delay included even weekend. Therefore, it was pleaded that it is neither wanton nor wilful and hence prayed for condonation of delay.

3. We heard the rival parties and condone the delay.

4. The Ld. DR submitted that the assessee, M/s. Chennai Teachers' guild co-operative society ltd., a co-operative credit society for the Teachers of schools and colleges in Chennai, derived its income from interest received from the credit facilities to the members of the society and interest received from the deposits made with Chennai Central Cooperative Bank Ltd. While making the assessment for assessment year 2016-17, the AO held that the interest receipts from the deposits made with the Chennai Central Cooperative Bank is not permissible as a deduction u/s. 80P for the reason that the assessee society is not in the business of lending to banks and earning interest therefrom. Aggrieved the assessee filed an appeal before the CIT(A). The Ld. CIT(A) relying on the decision of the Jurisdictional High Court in the case of CIT vs Salem Agricultural Producers' Cooperative Marketing Society in TCA No. 5/2015 dated 10.08.2016 allowed the appeal. Aggrieved against that

order of the Ld. CIT(A), the Revenue is on appeal with the following grounds:

1. *The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.*
2. *The CIT(A) has erred in deleting the disallowance made by the AO by not considering the fact that the assessee had received interest receipt from surplus funds deposited with Chennai Central Coop. Bank which is not eligible for deduction u/s. 80P.*
3. *The CIT(A) ought to have relied on the decision of the Hon'ble Supreme Court in the case of Citizen Co-operative Society Ltd., vs ACIT, Circle 9(1), Hyderabad (2017) 84 taxman.com 114 (SC).*
4. *For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer be restored."*

And presented the case on the above lines and pleaded to restore the order of the AO.

5. Per contra, the Ld. AR submitted that the facts in this case is different from the facts of the case relied on by the Revenue. In this case, the issue is whether the receipt of the assessee, co-operative society from a district co-operative bank, arising out of surplus or otherwise placed with the co-operative bank as required by the statute is eligible for deduction u/s. 80P or not. In this regard, on the facts, the Ld. CIT(A) applying the Jurisdictional High Court's decision in a host of cases held that the interest received by a co-operative society from investing its surplus in any district co-operative bank is eligible for

deduction u/s. 80P(2). The Hon'ble High Court's decisions have equated these co-operative banks with co-operative societies and hence, the Ld. CIT(A) has correctly allowed the assessee's appeal. Therefore, the Ld. AR supported and relied on the order of the Ld. CIT(A).

6. We heard the rival submissions, gone through the relevant material and find merit in the submissions of the Ld. AR. The fact remains that the assessee is a co-operative society. It has earned the impugned interest from Chennai central co-operative bank ltd, which is also a co-operative society engaged in banking business. The relevant portion of the order of the Jurisdictional High Court in the case of CIT vs Salem Agricultural Producers' Cooperative Marketing Society in TCA No. 5/2015 dated 10.08.2016 is extracted as under:

*"6. Addressing the said issue, at paragraph No.8, in I.T.A.No.732/MDS/2014 dated 30/6/2014, the Tribunal has ordered as hereunder:-*

*"The case of the assessee is that the income by way of interest and dividend earned by the assessee Society are from investments made in Salem District Central Co-operative Bank, which is also admittedly, a co-operative society and are allowable deduction. The Assessing Officer has held that the assessee has made only with Salem District Central Co-operative Bank and therefore, the income from investment with the Bank is not entitled for deduction under Section 80 P (2) (d) of the Act. On appeal, the Id.CIT (Appeals confirmed the order passed by the Id.CIT (Appeals). We find that in the case of CIT Vs. Kangra Co-operative Bank Ltd. [2009] 309 ITR 106 (HP), the Hon'ble Himachal Pradesh High Court*

*has considered Section 80 P (2) (d) of the Act. The interest earned by the assessee co-operative bank on fixed deposits with Himachal Pradesh State Co-operative Bank in compliance with the provisions of Section 57 of the Himachal Pradesh Co-operative Societies Act, 1968, the income derived from banking business is eligible for deduction under Section 80 P (2) (a) (i) of the Act. Exemption is also available under Section 80 P (2) (d) of the Act. In the present case, the assessee is an Agricultural Producers Co-operative Marketing Society Ltd., registered under Tamil Nadu Co-operative Societies Act and established for the benefit of the Agricultural producers and the interest or dividend earned by the assessee will be beneficial to the members alone. Therefore, keeping in view of the decision, in the case of CIT Vs. Kangra Co-operative Bank Ltd., (supra), we hold that the assessee is eligible for benefit under Section 80 P (2) (d) of the Act and also this being a beneficial section to the co-operative Societies.”*

*7. Let us consider the decision in KANGRA CO-OPERATIVE BANK LTD'S case referred to by the tribunal. The question of law framed therein is as follows:-*

*"Whether on the facts and circumstances of the case, the Income-tax Appellate Tribunal was right in law in holding that the interest income earned by the assessee on deposits made with H.P.State Co-operative Bank in the shape of F.D.Rs. is income derived from banking business and therefore, eligible for deduction under Section 80 P (2) (a) (i) of the [Income Tax Act](#)?"*

*8. After considering the decisions in CIT Vs. Karnataka State Co-operative Apex Bank reported in [2001] 251 ITR 194, CIT Vs. Ramanathapuram District Co-operative Central Bank Ltd reported in [2002] 255 ITR 423 (SC), a Division Bench of the Himachal Pradesh High Court, at paragraph Nos.10 and 11 held thus:-*

*"The Karnataka High Court in CIT Vs. Sri Ram Sahakari Bank Ltd., [2004] 266 ITR 632, held that the interest on investments and short-term fixed deposits in banks was entitled to be deducted under Section 80 P (2) (a) (i) of the Act. In fact, in CIT Vs. Nawanshahar Central Co-operative Bank Ltd., [2007] 289 ITR 6, the Apex Court has held that where under the provisions of the [Co-operative Societies Act](#), the co-operative bank is*

*statutorily required to place part of its funds in approved securities, the income attributable thereto is not taxable under Section 80 P (2) (a) (i) of the [Income-tax Act](#), 1961.*

*In the present case, we have noted above that under [Section 57](#), every co-operative Society including the assessee is required by law to keep a percentage of its profits in reserve funds. These reserve funds can only be invested or deposited in a certain manner. Applying the ration of the judgment in Nawanshahar Central Co-operative Bank Ltd's case [2007] 289 ITR 6, it is apparent that any interest on such investments is required to be deducted under Section 80 P (2) (a) (i) of the Act. At para 12 of the judgment, further reiterated that .... Furthermore, the investments have been made in the H.P.State Co-operative Bank which is also a co-operative Society and, therefore, even under Section 80 P (2) (d) of the Act, interest income from investments made in any co-operative Society would also be entitled for deduction."*

*9. Though Mr.J.Narayanasamy, learned Senior Standing Counsel for Income Tax Department submitted that the Tribunal was not right in holding that the interest earned from the Salem Agricultural Producers Co-operative Marketing Society Ltd., for reduction under Section 80 P (2)(a) (i) of the [Income Tax Act](#), we are not inclined to accept the said contentions. For the reason that a District Central Co-operative Bank, is also a Society, in which event, the income by way of interest and dividend earned by the assessee/respondent Society from the investments made in Salem District Central Co-operative Bank, which is also a Co-operative Society is entitled for deduction under Section 80 P (2) (a) (i) of the [Income Tax Act](#). Decision relied on by the assessee and considered by the Tribunal squarely applies to the facts on hand. Question of law, figuring as 4, is negated as against the appellant."*

From the above it is clear that, on the above facts, the Ld. CIT(A) has correctly applied the decision of the Jurisdictional High Court, supra, and hence we do not find any reason to interfere with the order of the Ld. CIT(A). Therefore, we dismiss the Revenue's appeal.

7. In the result, the Revenue's appeal is dismissed.

Order pronounced on Thursday, 20<sup>th</sup> February, 2020 at Chennai.

<b>Sd/-</b> <b>(एन.आर.एस .गणेशन)</b> <b>(N.R.S. GANESAN)</b> <b>न्यायिकसदस्य/Judicial Member</b>	<b>Sd/-</b> <b>(एसजयरामन)</b> <b>(S. JAYARAMAN)</b> <b>लेखासदस्य/Accountant Member</b>
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चेन्नई/Chennai,

दिनांक/Dated: 20<sup>th</sup> February, 2020

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF