

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. Nos.2898 & 2899/Chny/2016
Assessment Years: 2012-2013 & 2013-2014**

The Government Telecommunication
Employees Co-operative Society
Limited,
New No.112, Old No.37A,
Sembudoss Street,
Chennai – 600 001

The Income Tax Officer,
Non-Corporate Ward – 12 (3),
Vs. Chennai – 600 006.

[PAN: AABAT 3072B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. S. Sridhar, Advocate
: Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.11.2020

घोषणा की तारीख /Date of Pronouncement

: 02.12.2020

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

These two appeals filed by the Assessee are directed against separate orders of the learned Commissioner of Income Tax (Appeals)-13, Chennai in I.T.A. No.21/CIT(A)-13/AY 2012-13 & I.T.A. No.108/CIT(A)-13/AY 2013-14 both dated 04.08.2016 relevant to the Assessment years 2012-2013 & 2013 - 2014.

I.T.A. Nos.2898/Chny/2016 :

2. The facts of the case in brief is that the Assessee is a Co-operative Society established in the year 1926 by the employees of the Telecom and BSNL. The Assessee has advanced certain funds to the employees of the Assessee's Society had received an interest income, claimed as eligible for Section 80P of the Income Tax Act, 1961. The Assessing Officer has rejected the claim of the Assessee on the ground that the employees of the Assessee's Society are not members of the Society. Therefore, the interest income received is not eligible for Section 80P of the Income Tax Act, 1961.

3. The learned Commissioner of Income Tax (Appeals) confirmed the order of the Assessing Officer.

4. On appeal, the learned Counsel of the Assessee has submitted that the staff of the Assessee's Society do automatically become members of the Society and therefore the interest received from the staff of the Assessee's Society is eligible for Section 80P of the Income Tax Act, 1961.

5. The learned Authorized Representative submitted that the staff of the Society are not eligible to be as members of the Society as the Society is created for the benefit of the members alone. If at all the

Section 80P of the Income Tax Act, 1961 has to be allowed, it is to be allowed only to the members and not to the staff of the Society.

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

7. The Assessee is a Telecom Employees Co-operative Society established for the benefits of the members. The Assessee's Society advanced certain loans to the staff of the Employees Society and received interest income. The Assessee's Society has claimed an exemption u/s.80P of the Income Tax Act, 1961 in respect of the interest income received from the staff of the Assessee's Society.

The Assessing Officer has denied on the ground that the interest income from the staff is not qualified for exemption u/s.80P of the Income Tax Act, 1961. The same is confirmed by the learned Commissioner of Income Tax (Appeals).

8. We find that the Assessee's Society has existed only for the members of the Telecom Employees Co-operative Society and not for the benefit of the staff of the Telecom Employees Co-operative Society. The Telecom Employees Co-operative Society is an altogether different from the staff of the Assessee. Therefore, the claim made by the Assessee u/s.80P of the Income Tax Act, 1961 is not an eligible claim

and therefore the Assessing Officer as well as the learned Commissioner of Income Tax (Appeals) rightly denied the claim of the Assessee u/s.80P of the Income Tax Act, 1961.

In view of the above, in this appeal, the issue has been decided against the Assessee and in favour of the Revenue. Thus, the ground raised by the Assessee is dismissed. The appeal filed by the Assessee is dismissed.

9. The second ground of appeal raised by the Assessee is that the Assessing Officer has treated the interest income as income from other sources and has not allowed the expenditure incurred by the Assessee. He only estimated that the expenditure which is not in accordance with law and submitted that the issue may be remitted back to the Assessing Officer to examine *de novo*.

10. On the other hand, the learned Departmental Representative has not raised any objection.

11. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

12. The only issue for consideration is the expenditure incurred by the Assessee to earn the interest income. The case of the Assessee is that the Assessing Officer has treated the interest income earned by the

Assessee has income from other sources and estimated the expenditure only. In the Assessment Order, the Assessing Officer has not properly considered the expenditure incurred by the Assessee to earn the interest income and simply estimated the interest expenditure.

13. In our view, it is not correct. Thus we set aside the order passed by the learned Commissioner of Income Tax (Appeals) on this count and remit back the matter back to the Assessing Officer to adjudicate the issue afresh in accordance with law *de novo*.

14. In the result, the appeal of the Assessee in I.T.A.No.2898/Chny/2016 is partly allowed for statistical purpose.

I.T.A. Nos.2899/Chny/2016 :

15. The facts and issues in this appeal are similar to that of the appeal in I.T.A. Nos.2898/Chny/2016. Thus, the decision taken in the earlier case applies to this order also. In view of the same, the appeal filed by the Assessee is partly allowed for statistical purpose.

16. The order passed by the learned Commissioner of Income Tax (Appeals) is therefore set aside and the appeal filed by the Assessee is partly allowed for statistical purpose.

17. In the result, the appeals filed by the Assessee in I.T.A.No.2898 & 2899/Chny/2016 are partly allowed for statistical purpose.

Order pronounced on 2nd December, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 2nd December, 2020

IA, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF