

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'SMC' BENCH : Hyderabad**

**(Through Video Conference)**

**Before Smt. P. Madhavi Devi, Judicial Member**

**ITA No. 1284/Hyd./2019  
Assessment Year: 2016-17**

Vanam Mahila Sangam Limited  
Hyderabad

vs.

ITO, Ward 2  
Warangal

PAN: AAAAV5933C

**(Appellant)**

**(Respondent)**

**For Assessee:** Sri E.S. Ranganath, C.A.

**For Revenue:** Sh. Sunil Kumar Pandey, D.R.

**Date of Hearing** : 08/12/2020

**Date of Pronouncement** : 06/01/2021

**ORDER**

This is assessee's appeal against the order of CIT(A)-3, Hyderabad dated 20.05.2019 relating to A.Y. 2016-17.

This appeal was taken up for hearing through Video Conference on 08.12.2020 and both the parties were heard.

2. Brief facts of the case are that the assessee is a Co-Operative Credit Society and carries on its activities of in providing loans to its members and earns interest income and also accepts thrift deposits from its members. The assessee filed its return of income for the A.Y. 2016-17 on 13.03.2018 admitting total income at 'nil' after claiming deduction u/s 80 P of the Income Tax Act, 1961 (the Act). Pursuant to selection of the return of income for scrutiny under CASS, notices u/s 143(2) and 142(1) were issued to assessee, in response to which the assessee submitted the information called for by the

AO. During assessment proceedings, the AO observed that the assessee has made deposits with Kotak Mahindra Bank and has earned interest income therefrom. AO held that such interest income cannot be treated as “business income” but has to be treated as “income from other sources”, and, accordingly, deduction u/s 80 P of the Act is not to be allowed. A Show Cause Notice was accordingly issued to assessee in response to which assessee vide letter dated 10.12.2018, filed the following reply.

*"With regard to interest of Rs. 11,48,429/- on savings bank account, it is stated that the Society is allowed to open a savings bank account with bank to transact its activities, which in later years restricted to a current account which does not carry interest. Therefore, opening savings bank account is essential and compulsion for the Society to transact its activities which solely of the nature of financial transactions and provisions of income tax act provides for banking operation for all financial transaction. Even in case of interest earned on fixed deposits deduction was allowed under Section 80P of the Income tax Act as held in number of legal decisions. Hence interest of Rs.11,48,429/- is eligible for deduction under Section 80P(2)(a)(i) of Income tax Act.*

*The Society is a Coop Society as stated in Section 2(19) of Income tax Act and having registration No. AMC/WGL/DCO/2007/2018 dated 1/10/2007 issued under Section 5 of the AP Mutually Aided Cooperation Societies Act, 1995. Therefore, the Society is eligible for deduction of the income covered under Section 80P(2)(a)(i) of Income tax Act.*

*The Society provided credit facility to its members besides encouraging savings among members. The Society has not borrowed any amounts from any outside agency. All receipts and disbursements are limited to its members."*

2.1. AO observed that in case of M/s Totgar's Co-Operative Sale Society Ltd for the AYs 1991-92 to 1999-2000, the Hon'ble Supreme Court has held the issue against the assessee. He also relied on the decision of Hon'ble Karnataka High Court in the case of M/s Tumkur Merchants Co-operative and Credit Society and held that interest earned on deposits held with bank

out of surplus funds of Society is taxable under the provisions of S.56 of the Act. Accordingly, AO brought the sum of Rs.11,48,437/- to tax.

2.2. Aggrieved, assessee preferred an appeal before the CIT(A), who confirmed the order of AO and the assessee is in second appeal before the Tribunal.

3. The Ld.Counsel for the assessee submitted that the amount deposited by the assessee into the S.B. account and the interest income earned has been offered to tax by assessee as business income. He prayed that since it has been accepted as business income, it has to be allowed as deduction u/s 80 P of the Act.

3.1. The Ld.DR, on the other hand, relied upon the decision of Hon'ble Supreme Court and submitted that since interest is not earned from the deposits made by Members or out of any business expediency, but it is interest earned from fixed deposits on surplus funds deposited with other banks, the same is not to be treated as business income and hence no deduction u/s 80P is to be allowed.

4. Having regard to rival contentions and material placed on record as well as case laws relied upon by the AO and the CIT (A), I find that the only issue before the Tribunal is whether the interest income earned by the assessee firm from the deposits in the Savings Bank is eligible for deduction u/s 80P(2) of the I.T. Act. The AO and the CIT (A) have relied upon the decision of the Hon'ble Supreme Court in the case of M/s Totgar's Co-Operative Sale Society Ltd to deny the deduction. However, I find that the said decision is distinguishable on facts and is not applicable to the facts of the case before this Tribunal. In the case of M/s Totgar's Co-Operative Sale Society Ltd, the interest income was earned on short term bank deposits and securities which were made out of the surplus funds of the members retained by the society and were not immediately necessary for the business of the assessee therein. But in the case before this Tribunal, the assessee society had to make the

deposits into the Savings Bank A/c held with Kotak Mahindra Bank as a business requirement. Since the assessee's funds were available in the Savings Bank A/c, the assessee has earned certain interest income thereon. Thus, it can be seen that the interest income earned is not on fixed deposits, but it is on the funds which are available and which are required for the business purpose of the assessee. Therefore, the decision of the Hon'ble Supreme Court in the case of M/s Totgar's Co-Operative Sale Society Ltd is clearly not applicable to the case before the Tribunal. Further the Hon'ble Andhra Pradesh High Court in the case of CIT vs. Andhra Pradesh State Coop. Bank Ltd in ITA No.86/03 and others dated 7.6.2011 has clearly held that the interest income earned on deposits in the Bank is also in the nature of business income which is eligible as deduction u/s 80P(2) of the I.T. Act.

5. Respectfully following the above, I hold that the reliance of the AO and the CIT (A) on the decision of the Hon'ble Supreme Court is misplaced and the assessee is eligible for deduction u/s 80P(2) of the Act on the interest income earned from the Savings Bank A/c held with the Kotak Mahindra Bank.

6. In the result, assessee's appeal is allowed.

Order pronounced in Open Court on 6<sup>th</sup> January, 2021

Sd/-

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Dated 6<sup>th</sup> January, 2021.

*Gmv/pvv*

Copy of Order forwarded to:

1. Vanam Mahila Sangam Limited, 1-7-641, Immaculate Convent Subedari Warangal 506 001.
2. ITO, Ward 2, Warangal.
3. ACIT, Warangal Range, Warangal.
4. CIT(A)-3, Hyderabad.
5. Pr.CIT -3, Hyderabad
- 6 D.R. ITAT Hyderabad
7. Guard File