

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PANAJI BENCH, PANAJI – VIRTUAL COURT**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI S. S. VISWANETHRA RAVI, JM**

आयकर अपील सं. / ITA No.103/PAN/2018  
निर्धारण वर्ष / Assessment Year : 2012-13

Belgaum Coal & Coke Consumer  
Cooperative Association Ltd.,  
Khanapur Road, Udyambag,  
Belgaum-590008.

PAN : AAAAT4615M

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward- 1(1),  
Belagavi.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Shivanand Halbhari  
Revenue by : Shri Sourabh Nayak

सुनवाई की तारीख / Date of Hearing : 12.11.2021  
घोषणा की तारीख / Date of Pronouncement : 17.11.2021

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals), Belagavi ('CIT(A)' for short) dated 23.01.2018 for the assessment year 2012-13.

2. The appellant raised the following grounds of appeal :-

- “1. The learned A.O. has erred in not allowing deduction U/s 80P(2)(d) of the Income Tax Act, 1961 without properly verifying the details of investee.
2. The learned A.O. has wrongly interpreted the provisions of section 80P(2)(d) by not treating investees i.e. Belgaum Industrial Cooperative Bank and Belgaum District Central Cooperative Bank as cooperative societies.
3. The learned A.O. has wrongly interpreted the definition of Cooperative Society vide section 2(19) of the Income Tax Act, 1961 by treating those entities which are registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies, as not being cooperative societies.

4. *The Ld A.O. has grossly disallowed the deduction claimed U/s 80P(2)(d) without providing any proper reason and without providing any opportunity to the assessee to represent in this particular issue.*
5. *Any other grounds which may be raised during appeal hearing.”*

3. Briefly, the facts of the case are that the appellant is a consumer co-operative society registered under the Bombay Cooperative Societies Act, 1925. It is formed with the object of procuring foundry raw materials and selling them to its members and also providing immense services letting out godown and warehouses to its members. The return of income for the assessment year 2012-13 was filed on 13.12.2012 declaring total income of Rs.31,340/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-1(1), Belgaum ('the Assessing Officer') vide order dated 11.08.2014 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.5,49,190/-. While doing so, the Assessing Officer had denied the exemption of income received from (i) Belgaum Industrial Co-op. Bank Ltd., Udyambag, Belgaum on the fixed deposits of Rs.4,89,649/- and (ii) Belgaum District Central Co-op. Bank Ltd., Tilakwadi, Belgaum on the fixed deposits of Rs.7,395/- aggregating to Rs.4,97,044/- under the provisions of section 80P(2)(d) of the Act on the ground that the interest income was received from cooperative bank as they are not cooperative societies. Even on appeal before the ld. CIT(A), the same was confirmed.

4. The ld. AR submitted that interest income received from other cooperative society is eligible for deduction u/s 80P(2)(d) of the Act.

5. On the other hand, ld. Sr. DR placed reliance on the orders of the lower authorities.

6. We heard the rival submissions and perused the material on record. The solitary issue in the present appeal relates to the eligibility of exemption of income received from cooperative banks under the provisions of section 80P(2)(d) of the Act. The Assessing Officer as well as the Id. CIT(A) was of the opinion that the same does not call for exemption u/s 80P(2)(d) of the Act as they were received from a cooperative bank. The reasoning of the lower authorities cannot be sustained in the eyes of law as the cooperative banks also the spies of the cooperative societies and continue to be cooperative society despite the fact that they enjoy the licence from Reserve Bank of India to carry out the business of the banking. Then the issue that comes up for consideration is that whether the cooperative banks is also cooperative society or not?. This issue was considered by the Hon'ble Karnataka High Court in the case of CIT vs. Totagars Cooperative Sale Society, 392 ITR 74 (Karn) wherein the Hon'ble High Court referring to the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra) held that the exemption is not to be denied in respect of interest income on investment as same falls under the provisions of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. Even the decision of Pune Bench of the Tribunal in the case of Sant Motiram Maharaj Sahakari Pat Sanstha Ltd. vs. ITO, 120 taxmann.com 10 after making reference to the decisions of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra), having noticed the divergent views of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. vs. ITO, 55 taxmann.com 447 and the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. vs. CIT, 50 taxmann.com 278, the decision of the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. (supra) was not preferred to the

view of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. (supra) by observing as under :-

“9. The Pune Benches of the Tribunal in *Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016, dated 9-4-2019)* decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014, dated 19-8-2015)* has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon'ble Karnataka High Court in *Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.)* allowing deduction u/s. 80P on interest income and that of the Hon'ble Delhi High Court in *Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110 DTR 89 (Delhi)* not allowing deduction u/s.80P on interest income earned from banks. Both the Hon'ble High Courts took into consideration the ratio laid down in the case of *Totgar's Cooperative Sale Society Ltd. (2010) 322 ITR 283 (SC)*. There being no direct judgment from the Hon'ble jurisdictional High Court on the point, the Tribunal in *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra)* preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of *Tumkur Merchants Souharda Credit Cooperative Ltd. (supra)*.

10. Insofar as the reliance of the ld. DR on the case of *Pr. CIT and Another Vs. Totagars Cooperative Sales Society (2017) 395 ITR 611 (Kar.)* is concerned, we find that the issue in that case was the eligibility of deduction u/s.80P(2)(d) of the Act on interest earned by the assessee co-operative society on investments made in co-operative banks. In that case, the assessee was engaged in the activity of marketing agricultural produce by its members; accepting deposits from its members and providing credit facility to its members; running stores, rice mills, live stocks, van section, medical shops, lodging, plying and hiring of goods and carriage etc. It was in that background of the facts that the Hon'ble High Court held that the assessee could not claim deduction u/s.80P(2)(d) of the Act. When we consider the impact of this decision, it turns out that the same is not germane to case under consideration in view of the position that the claim of the instant assessee is directly about the eligibility of deduction u/s.80P(2)(a)(i) of the Act and not u/s.80P(2)(d). Moreover, so many decisions relied on by the ld. AR amply go to prove that the view taken by the AO, cannot by any standard, be construed as not a possible view. We, therefore, hold that the ld. Pr. CIT was not justified in exercising the revisional power anent to interest income of Rs.22,34,270/- earned on investments made with co-operative banks.”

7. In the light of the above legal position, we hold that the interest income earned by the appellant society on investment made with the cooperative bank which are also cooperative societies is exempt from the Income Tax Act u/s 80P(2)(d) of the Act. Therefore, we hold that the lower authorities was not justified in denying the claim of deduction u/s 80P(2)(d) of the Act.

Accordingly, we direct the Assessing Officer to allow the same as deduction u/s 80P(2)(d) of the Act.

8. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 17<sup>th</sup> day of November, 2021.

**Sd/-**

**(S. S. VISWANETHRA RAVI)**  
न्यायिक सदस्य/JUDICIAL MEMBER

**Sd/-**

**(INTURI RAMA RAO)**  
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17<sup>th</sup> November, 2021.

Sujeet

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Balagavi
4. The Pr. CIT, Belagavi.
5. DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलिय अधिकरण, पुणे / ITAT, Pune.