

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ A ‘ Bench, Hyderabad
(Through Video Conferencing)

Before Shri A.M. Alankamony, Accountant Member and
Shri S.S. Godara, Judicial Member

S.No	Appeal No	Appellant	Respondent	A.Y
1	246/Hyd/2021	Andhra Pragathi Farmers Service Coop. Society, Yerraguntla PAN:AAAAR2374M	I.T.O Ward-2 Nandyal	2015-16
2	247/Hyd/2021	Andhra Pragathi Farmers Service Coop. Society, Pamulapadu PAN:AABAA0240L	-do-	2015-16
3	248/Hyd/2021	Andhra Pragathi Farmers Service Coop. Society, Pedda Harivanam PAN:AAAAR1875M	-do-	2015-16
Assessee by:		Sri K.A. Sai Prasad		
Revenue by:		Sri Rajendra Kumar, CIT(DR)		
Date of hearing:		04/01/2022		
Date of pronouncement:		06/01/2022		

ORDER

Per S. S. Godara, J.M.

These three assessee's appeal for A.Y 2015-16 arise against the Pr.CIT Tirupati's as many orders passed in F.No.263/Pr.CIT/TPT/2019-20, all dated 13.03.2020 involving proceedings u/s 236 of the I.T. Act, 1961, in short "the Act".

Heard both the parties. Case files perused.

2. We note at the outset that these three appeals suffer from 315, 322 and 318 days delay stated to be attributable to

communication gap between its office, office staff, auditor and arguing counsel as well as in the light of the clinching fact that the Pr.CIT's impugned revision orders have been passed just before the announcement of the COVID-19 pandemic first lockdown in March, 2020. There is further no dispute that hon'ble apex court's directions in Misc. Application No.665 of 2021 in SMW(C) No.3 of 2020 dated 23.9.2021 has already excluded all the prescribed limitations between 15.3.2020 to 2.10.2021. We thus condone the three impugned delay(s) therefore.

3. We next advert the sole substantive issue between the parties, qua correctness of the Pr.CIT's identical revision direction treating the corresponding regular assessments, dated 28.6.2017, 29.6.2017 and 27.6.2017; respectively as erroneous ones causing prejudice to the interest of the Revenue on the ground that the Assessing Officer (s) had accepted these taxpayer identical section 80P(aa) deduction claims pertaining to the interest income derived from nationalized banks. Learned Pr.CIT holds that the hon'ble apex court's decision in Totgars Co-operative Society Ltd vs, Income Tax Officer (322 ITR 283) (S.C) as well as CIT vs. Nawanshar Central Co-op Bank Ltd (289 ITR 6) (S.C) have already held that such deduction isn't available to a society like the assessee but banks only. He has also referred to the CBDT Circular No.18/2015 to the very fact.

4. Both the parties reiterated their respective stands against and in support of Pr.CIT's foregoing revision directions. We notice in this factual backdrop that the instant issue of as to whether a cooperative society is eligible for section 80P(2a) deduction qua, the interest income derived from deposits made in the nationalized banks is no more resintegra as the Tribunal

coordinate bench decision in ITA No.284/Hyd/2021, dated 30.09.2021 takes note of the hon'ble jurisdictional High Court decision in Vavveru Coop. Rural Bank Ltd vs. CCIT (396 ITR 371(A.P) as under:

“3. We now come to the correctness of learned PC ITs revision directions under challenge holding the corresponding regular assessment framed on 27.12.2018 and 27.10.2017 as erroneous ones causing prejudice to the interest of the Revenue on the ground that both the said Assessing Officers' had accepted the assessee's section 80P(2)(d) deduction claim(s) regarding interest income(s); derived from deposits made in SBI/Nationalised Bank(s) as eligible for the said relief. Learned PCITs rely on hon'ble apex court's landmark decision in The Totgar Co-operative Sale Society Limited Vs. ITO 322 ITR 283 (SC) that the impugned deduction is exigible only in case of income derived from co-operative banking activity or interest income from a certified institution than deposits made in nationalized banks. Learned PCIT therefore hold both the foregoing assessments as an instance inviting application of ITA Nos.284 & 286/Hyd/2021 section 263 revision jurisdiction. This leaves the assessee's aggrieved.

4. We have given our thoughtful consideration to rival pleadings qua correctness of the learned PCITs foregoing revision direction and find no reason to uphold the same. This is primarily for the reason that hon 'ble jurisdictional high court decision in Vavveru Co-operative Rural Bank Ltd. Vs. CCIT 396 ITR 371 (A.P) holds that a co-operative society's income derived from deposits in nationalized banks/SBI is also eligible for 80P deduction. Their lordships have duly taken into consideration the hon'ble apex court's foregoing decision (supra). We therefore hold that both the Assessing Officers therein had not committed any error in not disallowing the assessee's section 80P(2)(d) deduction claims in issue qua the respective interest income derived from fixed deposit in nationalised banks. The PCITs' revision direction under challenge herein forming subject matter of these two appeals stand reversed on the very analogy therefore. We lastly quote hon'ble apex court's ITA Nos.284 & 286/Hyd/2021 landmark decision Malabar Industrial Co. Ltd. Vs. CIT 243 ITR 83 (SC) that an assessment has to be both erroneous as well as causing prejudice to the interest of revenue; simultaneously before the CIT or the PCIT; as the case may be, sets section 263 revision mechanism in motion. And that it is not each and every assessment which would attract revision proceedings but only those wherein the Assessing Officer has not taken one of the two possible views. We thus restore both the assessments herein as a necessary corollary.

No other ground has been pressed before us”.

5. We adopt the foregoing detailed discussion mutatis mutandis to hold that the Pr.CIT's revision direction therein under challenge are not sustainable in law. The same stand reversed in all the instant three cases therefor.

No other ground has been pressed before us.

These three assessee's appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the Open Court on 6th January, 2022.

Sd/- (A.M.ALANKAMONY) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 6th January, 2022.

Vinodan/sps

Copy to:

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1	M/s.Andhra Pragathi Farmers Services Co-op Society, C/o Ch Parthasarathy & Co. 1-1-298/B/3, 1 st Floor, Ashoknagar, Hyderabad 500020
2	Income Tax Officer, 25/82 Sanjeeva Nagar, Nandyal
3	Pr. CIT, Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order