

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri George Mathan, JM & Shri B.R. Baskaran, AM

ITA No. 50/Coch/2021
(Assessment Year: 2016-17)

The Mayyanad Regional
Co-Operative Bank Ltd.
No. 94, Mayannad P.O.
Kollam 691303,

Income Tax Officer
Ward - 3
Vs. Kollam 695003

PAN – AADAT7783M

Appellant

Respondent

Appellant by: Shri G. Surendranath Rao, CA
Respondent by: Shri V. Roy Jose, CIT-DR

Date of Hearing: 10.02.2022
Date of Pronouncement: 10.02.2022

ORDER

Per: George Mathan, JM

This is an appeal filed by the assessee against the order of the Principal CIT, Thiruvananthapuram passed under Section 263 of the Income Tax Act, 1961 in File No. C.No.412/J/263/RP-59/2019-20/PCIT/TVPM dated 08.03.2021 for AY 2016-17.

2. Shri G. Surendranath Rao, CA represented the assessee and Shri V. Roy Jose, CIT-DR represented Revenue.

3. It was submitted by the learned A.R. that the Principal Commissioner of Income Tax had invoked his powers of revision under Section 263 of the Act in respect of the assessment order dated 26.12.2018 for AY 2016-17. It was the submission that the assessment order under Section 143(3) of the Act dated 26.12.2018 was subject matter of the appeal before the learned CIT(A) and subsequently before the ITAT. It was submitted that this Tribunal had in its order in ITA No. 636/Coch/2019 dated 16.12.2019 for ay 2016-17 had restored the issues to the file of the

AO and had directed to examine the activities of the assessee and determine whether the activities are in compliance with the activities of a co-operative society functioning under the Kerala Co-operative Societies Act, 1969 and accordingly grant deduction under Section 80P(2) of the Act. This was following the decision of the Hon'ble Supreme Court in the case of The Mavilayi Service Co-operative Bank Ltd. It was the submission that consequent to the order of the Tribunal dated 16.12.2019 the order passed under Section 143(3) of the Act dated 26.12.2018, no more survives, the revision order passed under Section 263 of the Act on 08.03.2021 do not have any leg to stand in so far as the very foundation being the assessment order under Section 143(3) of the Act dated 26.12.2018 no more survives, the order under Section 263 of the Act is liable to be quashed.

4. In reply the learned D.R. supported the order of the Pr. CIT.

5. We have considered the rival contentions. A perusal of the order of the Coordinate Bench of this Tribunal in ITA No. 636/Coch/2019 dated 16.12.2019 clearly shows that the order dated 26.12.2018 passed under Section 143(3) of the Act no more survives. Consequently the very foundation of the order passed under Section 263 of the Act being non-extinct the same not more survives. Hence, the order passed under Section 263 of the Act is quashed.

6. In the result, the appeal filed by the assessee is allowed.

Dictated and pronounced in the open Court on 10th February, 2022.

Sd/-
(B.R. Baskaran)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Cochin, Dated: 10th February, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -concerned*
4. *The CIT - concerned*
5. *The DR, ITAT, Cochin*
6. *Guard File*

By Order

//True Copy//

*Assistant Registrar
ITAT, Cochin*

n.p.