

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

**Before Shri George Mathan, JM & Shri M.Balaganesh, AM**

**ITA No. 298/Coch/2020**  
(Assessment Year: 2015-16)

M/s.Cochin Port Employees' Co-operative Society Limited, No.855, Willington Island, Kochi-682 009	Vs	Income Tax Officer, Non Corporate, Ward-2(4) & TPS, Kochi
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PAN : AAAAC1063E (Appellant)	(Respondent)
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Appellant by : Sri Anil D.Nair, Adv.  
Respondent by : Sri Shantham Bose, CIT-DR

Date of Hearing : 15.03.2022  
Date of Pronouncement : 15.03.2022

**ORDER**

**PER BENCH:**

This appeal filed by the assessee against the order of the Pr.CIT, Kochi, u/s.263 of the Income Tax Act, 1961 (Act), dated 13-03-2020 for the AY.2015-16.

2. Sri Anil D.Nair, Advocate appeared on behalf of the assessee and Sri Shantham Bose, CIT-DR appeared on behalf of Revenue.

3. It was the submission by the Ld.AR that the assessee is a co-operative society and filed its return of income seeking deduction u/s.80P(2) of the Act. The assessment was completed u/s.143(3) of the Act on 12-12-2017, accepting the returned income as NIL. It was the submission that subsequently notice u/s.263 was issued on the assessee relying upon the decision of the Full Bench of the Hon'ble jurisdictional High Court in the case of The Mavilayi Service

Co-operative Bank Ltd., Vs.CIT. It was the submission that the Ld.Pr.CIT proposed the revision on the ground that the interest income derived from District Co-operative Societies was not specifically asked for and examined by the AO. It was the submission that the decision of the Full Bench of Hon'ble Jurisdictional High Court in the case of Mavilayi Service Co-operative Bank Ltd., Vs.CIT has been reversed by the Hon'ble Supreme Court in the case of Malvilayi Services Co-operative Bank, reported as 431 ITR 1 (SC). It was the submission that the order u/s.263 of the Act was liable to be annulled.

4. In reply, the Ld.DR vehemently supported the order of the Ld.Pr.CIT, Kochi-2.

5. We have considered the rival submissions. As it is noticed that the Ld.Pr.CIT has invoked his powers u/s.263 of the Act for the purpose of applying the decision of the Full Bench of Hon'ble Jurisdictional High Court in the case of Mavilayi Service Co-operative Bank Ltd., Vs.CIT and as the said decision now stands reversed by the Hon'ble Supreme Court referred to supra, the very foundation of the order u/s.263 no more survives and consequently the order passed u/s.263 of the Act stands quashed.

6. In the result, the appeal of assessee is allowed.

Dictated and pronounced in the open court on 15<sup>th</sup> March, 2022

Sd/-  
**(M. Balaganesh)**  
**Accountant Member**

Sd/-  
**(George Mathan)**  
**Judicial Member**

Cochin, Dated: 15<sup>th</sup> March, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The Pr.CIT-Kochi*
4. *The DR, ITAT, Cochin*
5. *Guard File*

By Order

//True Copy//

*Assistant Registrar  
ITAT, Cochin*