

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

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 210/PAN/2018

Assessment Year: 2012-13

Hegdekatta Group Gramagala Vs. The Income Tax Officer,
Seva Sahakari Sangha Ltd., Ward 1, Sirsi, Karnataka
Hegdekatta Sirsi Taluk, Uttara
Kannada Distt. Karnataka
581 403

[PAN: AAAAH 0479F]

(Appellant)

(Respondent)

I.T.A. No. 244/PAN/2018

Assessment Year: 2012-13

Shri Shivayogi Urban Vs. Income Tax Officer,
Co-operative Credit Society Ltd. Ward-1 (3) Belgaum
122, M.G. Market Athani, 590 001
Distt. Belagavi-591 304

[PAN: AAJTS 7501F]

(Appellant)

(Respondent)

I.T.A. Nos. 248 & 249/PAN/2018
Assessment Years: 2012-13 & 2013-14

Shri Gomatesh Credit
Co-operative Society Ltd;
Kothali, Chikkodi Taluk,
Belagavi Distt. 591 287

[PAN: AACAS 0980N]

(Appellant)

Vs. Income Tax Officer,
Ward-1 Nippani

(Respondent)

Appellant by : None

Respondent by: Smt. Rijula Uniyal, Sr. DR

I.T.A. No. 222/PAN/2018
Assessment Year: 2012-13

The Yamakanmardi Laxmi
Urban Credit Souharda Sahakari
Niyamit, Yamakanmardi
Tq. Hukkeri, Distt. Belagavi
-591246

[PAN: AABTT 5580F]

(Appellant)

Vs. Income Tax Officer,
Ward 1 (1) Belgavi

(Respondent)

Appellant by : Shri Shivalingappa V Kanchagaratti, CEO

Respondent by: Smt. Rijula Uniyal, Sr. DR

Date of Hearing: 05.04.2022

I.T.A. No. 443/PAN/2018
Assessment Year: 2013-14

Prathamik Krishi Pattin
Sahakari Bank, A/P Kottalagi
(Tal-Athani) (Distt-Belagavi)

[PAN: AABAP 9814H]

(Appellant)

Vs. The Income Tax Officer,
Ward 1 (4), Belgavi

(Respondent)

Appellant by : None

Respondent by: Smt. Rijula Uniyal, Sr. DR

I.T.A. No. 431/PAN/2018
Assessment Year: 2015-16

The Belgaum Manufacturers
Co-operative Industrial Estate
Ltd., Udyambag-Belagavi

[PAN: AAAAT 7254J]

(Appellant)

Vs. Income Tax Officer,
Ward 1-(1), Belgavi

(Respondent)

Appellant by : Smt. Pratibha R. Advocate

Respondent by: Smt. Rijula Uniyal, Sr. DR

I.T.A. No. 446/PAN/2018
Assessment Year: 2015-16

M/s Nerali Urban Co-operative Vs. Income Tax Officer,
Credit Society Ltd., Nerali, Ward 2-(2), Belgavi
Hukkeri, Distt. Belagavi-
591126

[PAN: AACAN 2378P]
(Appellant)

(Respondent)

I.T.A. No. 445/PAN/2018
Assessment Year: 2015-16

M/s Veerashaiva Credit Vs. Income Tax Officer,
Southard Sahakari Ltd., Ward 2-(2), Belgavi
Athani

[PAN: AAAAV 4068N]
(Appellant)

(Respondent)

Appellant by : None

Respondent by: Smt. Rijula Uniyal, Sr. DR

Date of Hearing: 07.04.2022

Date of Pronouncement: 07.04.2022

ORDER**Per Bench:**

The instant appeals are filed by the different assesseees before the ITAT against the order of the Ld. Commissioner of Income Tax, passed u/s 250(6).

2. All the appeals are related disallowance of deduction u/s 80P for the sake of brevity, we are taking all the matters together. Related to matters in ITA No. 244/PAN/2018 is delayed by 7 days and ITA Nos. 248 & 249/PAN/2018 are delayed by 38 days. The assesseees prayed for condonation of delay. In all the three appeals delay are condoned and accepting the appeal for hearing.

3. Brief fact is that all the cooperative societies invested their surplus funds in Cooperative Bank and accordingly the interest was earned. The assessee claimed the interest as deduction u/s 80P but the Ld. AO disallowed the deduction for violation of Section 80P(2)(d) of the Income Tax Act (in brevity the Act). In relation to restriction u/s 80P(4) of the Act. The interest was added back with the total income and treated as income from other sources. The Revenue authorities had relied on the order of Hon'ble Supreme Court in the case of Totgar Cooperative Sales Society Ltd. V. ITO 188 Taxman 282 (SC). Accordingly the interest earned from Cooperative Bank was added back with the total income of the assessee society. The assessee filed an appeal before the Ld. CIT(A) and the Ld. CIT(A) upheld the order of the Ld. AO, so the assessee filed the appeal for further adjudication before the ITAT.

4. The Ld. Counsel of the assessee vehemently argued and placed a paper book which is kept in record. According to the Ld. counsel the assessee invested his

fund to the Cooperative Bank so the interest earned from the bank is liable for the exemption u/s 80P of the Act. Section 80P(4) is not affected in this particular deduction. The Revenue is wrongly interpreted the section 80P(4) and the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd, supra.

5. The Ld. DR vehemently argued and relied that the assessee invested in Cooperative Bank and the interest earned from the Cooperative Bank is not eligible u/s 80P(4). Section 80P(4) only restricted investment in the Cooperative Society not in bank. So the order of the Ld. CIT(A) is maintainable.

6. We already adjudicated the matter related ITA No. 184/PAN/2018 for assessment year 2012-13 and we take the same view here also so accordingly the deduction u/s 80P(2) related to investment in Co-operative Bank is liable deduction as per section 80P(2)(a)(i). Here we are discussing some judicial view.

7. **a) In the case of Tumukur Merchants Souhard credit coop limited Vs. The income Tax officer ward-1 Tumkur, [2015] 55 taxmann.com 447 (Karnataka)**

“10. In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact this amount which is in the nature of profits and gains, was not immediately required by the assessee for lending money to the members, as there were no takers. Therefore they had deposited the money in a bank so as to earn interest. The said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of Section 80P(1) of the Act. In fact similar view is taken by the Andhra Pradesh High Court in the case of CIT v. Andhra Pradesh State co-operative Bank Ltd., [2011] 200 Taxman

220/12 taxmann.com 66. In that view of the matter, the order passed by the appellate authorities denying the benefit of deduction of the aforesaid amount is unsustainable in law. Accordingly it is hereby set aside. The substantial question of law is answered in favour of the assessee and against the revenue. Hence, we pass the following order”

b) In the case of The Commissioner of Income tax vs Gulshan Mercantile Urban Co-Operative Bank Ltd [2013] 29 taxmann.com 8 (All.)

“10. The question as to whether the business is derived from or attributable to SLR or non-SLR funds would not make any difference for the purposes of qualifying the interest earned by the cooperative bank under Section 80P(2)(a)(i) as the deposits of surplus idle money available from working capital, including reserves, excess collection of interest tax and other incomes are all attributable to the business of banking. The interest from such deposits cannot be said to be beyond the legitimate business activities of the bank.

11. For the aforesaid reasons, we do not find that the Income Tax Appellate Tribunal committed any error in arriving at findings that the interest are not deposits of non-SLR funds and the cooperative bank will qualify for exemption under Section 80P(2)(a)(i) of the Act.”

c) In the case of Kaliandas Udyog Bhavan Memises Co-op Society Ltd. v. Income-tax Officer-21(2)(1), 6547/MUM/2017, AY 14-15 (ITAT-Mumbai), Date of Order-25/04/2018.

“9. We thus in the backdrop of our aforesaid observations are unable to persuade ourselves to be in agreement with the view taken by the lower authorities that the assessee would not be entitled for claim of deduction under Sec. 80P(2)(d), in respect of the interest income on the investments made with the co-operative bank. We thus set aside the order of the lower authorities and conclude that the interest income of Rs.27,48,553/- earned by the assessee on the investments held with the co-operative bank would be entitled for claim of deduction under Sec. 80P(2)(d).”

d) In the case of Tirupati Campus PH. II CO-OP HOUSING SOCIETY MARYADIT VERSUS THE NCOME TAX OFFICER WARD -7 (4), PUNE (ITAT_Pune) ITA No.1429/PUN/2018, AY-2015-16, Date of Order 28/02/2019.

“5. I have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to denial of claim of deduction u/s 80P(2)(d) of the Act. The claim of deduction by the assessee was denied by the AO with respect to the interest income earned from Saraswat Co-operative Bank on the ground that the same is not a Co-operative Society. I find that the Co-ordinate Bench of the Delhi Tribunal in the case of M/s. The Veer Cooperative Group Housing Society Limited (supra) has held that Saraswat Co-operative Bank to be a Co-operative Society and the interest earned therein to be entitled to claim deduction u/s 80P(2)(d) of the Act. I further find that Co-ordinate Bench of the Mumbai Tribunal in the case of Lady Ratan Tower Cooperative Housing Society Ltd., (supra) and after relying on the decision in the case of Kaliandas Udyog Bhavan Premises Cooperative Society Ltd., (supra) has held that the interest earned on investments held with the Co-operative Banks would be eligible for deduction u/s 80P(2)(d) of the Act.”

8. Considering all the judgments of the different High Courts & Tribunals we hereby hold that the investment of assessee in cooperative bank is eligible investment u/s 80P(2)(d) of the Act. The interest of the said investment related to Cooperative Society, assessee is eligible for deduction u/s 80P(2)(a)(i) of the Act. Accordingly the appeals of the assessee are allowed.

9. In the result, all the grounds of appeal of the assessee related ITA No. 210/PAN/2018, ITA No. 244/PAN/2018, ITA Nos. 248 & 249/PAN/2018, ITA No. 222/PAN/2018, ITA No. 443/PAN/2018, 431/PAN/2018, 446/PAN/2018 and ITA No. 445/PAN/2018 are allowed.

Order pronounced in the open court on 07.04.2022

Sd/-
(Dr. M. L. Meena)
Accountant Member

Sd/-
(Anikesh Banerjee)
Judicial Member

Date: 07.04.2022

GP/Sr. PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(A),
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T
- (6) The Guard File

True Copy

By Order

Sr. Private Secretary
Income Tax Appellate Tribunal