

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**  
**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 288/Asr/2019**  
Assessment Year: 2015-16

M/s The Faridkot Primary  
Cooperative Agricultural  
Development Bank Ltd.,  
Kotkapura Road, Faridkot  
[PAN: AAEAT 3897R]  
**(Appellant)**

Vs. The Dy. Commissioner of  
Income Tax, Circle-3, Ferozepur  
  
**(Respondent)**

Appellant by : Sh. P. N. Arora, Adv.

Respondent by: Sh. Manpreet Singh Duggal, Sr. DR

Date of Hearing: 27.06.2022

Date of Pronouncement: 11.08.2022

**ORDER**

**Per Dr. M. L. Meena, A.M.:**

The appeal has been filed by the assessee against the impugned order dated 20.02.2019 passed by the Ld. Commissioner of Income Tax (Appeals), Bathinda in respect of the Assessment Year 2015-16.

2. The assessee has raised the following grounds of appeal:

- “1. *The Ld. CIT(A), Bathinda erred on facts and law in confirming the action of the AO of assessing the income of the assessee at Rs.2,46,13,931 / - vide assessment order u/s 143(3) dated 28.11.2017 as against nil income declared by the assessee after claiming deduction u/s 80P.*
2. *The Ld. CIT(A), Bathinda erred on facts and law in confirming the action of me AO of disallowing the deduction u/s 80P while recording a finding that the activities of the appellant extended to non-farm sector and also to non-members without giving any opportunity to the assessee because deduction u/s 80P was disallowed by the AO on a different ground that area of operation of the assessee was not confined to a single taluk.*
3. *The Ld. CIT(A), Bathinda erred on facts and law in disallowing the deduction claimed by the assessee u/s 80P while giving a wrong interpretation to the definition of Primary Co-operative Agricultural & Rural Development Bank as given in Explanation to section 80P(4).*
4. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.”*

3. A proposed ground no. 2, the appellant assessee has challenged the decision of the Id. CIT(A) in giving the findings that the activities of the appellant were extended to non-farm sector and also to non-members without giving any opportunity to the assessee.

4. The appellant-assessee is a Primary Coop. Agricultural Development Bank Ltd. engaged in the activity for providing facilities of long term loan to its members. The assessee’s case was selected in scrutiny under CASS for the reason of claim of deduction under chapter VI-A. During the course of assessment proceedings, the AO noticed that the appellant was working in two Taluka, which was in violation of sub section 80P(4) of Income Tax Act which lays down that for claiming exemption under this section, the entity should have its area of operation confined to a Taluka and principal

object to provide long term credits for agricultural and rural development activities. The AO being not satisfied with the explanation of the assessee, has rejected its claim of deduction to the tune of Rs.2,46,13,931/- and added the same to the returned income.

5. Being, aggrieved with the assessment order, the appellant-assessee filed appeal before the Id. CIT(A) who has confirmed the findings of the AO by observing vide para 4.2.10 is as under:

*“4.2.10 In the circumstances above, even if it is considered that the appellant is not a corporative bank losing its eligibility for deduction straight away u/s 80P(4) even then it is neither a primary agricultural credit society nor Primary Corporative Agricultural And Rural Development Bank for the reasons that the activities of the appellant extended to **non-farm** sector and also to **nonmembers** (Government Employees) who are admitted as nominal members just to bypass the legal provisions. Insofar as the area of operation extending from one taluka to more than one taluka is concerned, this issue remains academic because as per the discussion above the appellant loses its character of Primary Corporative Agricultural And Rural Development Bank and once this is lost, the protection provided in explanation to section 80P(4) of Income Tax Act also vanishes, I have also considered the alternative plea of the appellant that at least deduction of Rs. 50,000/- as contemplated u/s 80P(2)(c) of Income Tax Act may be provided but unfortunately section 80P(4) acts like a weapon cutting across the entire claim of deduction under the main section 80P. There is no confusion on the interpretation that once the appellant falls into the trappings of section 80P(4), it loses complete claim over the deduction is under section 80 P of Income Tax Act.”*

6. Aggrieved with the CIT(A) orders, the appellant is in appeal before us. The Id. counsel for the assessee reiterated the submission made before the authorities below. The Id. counsel contended that the Id. CIT(A), Bathinda has erred on facts and law in confirming the action of the AO, assessing the income of the assessee at Rs.2,46,13,931/- by rejecting the assessee's claim of deduction/exemption u/s 80P of the Income Tax Act; that the CIT(A) erred in confirming the action of the AO in rejecting the assessee's claim of deduction u/s 80P of the act, by recording a finding that the activities of the appellant were extended to non-farm sector and also to non-members without giving any opportunity to the assessee and without appreciating the facts that the deduction u/s 80P was disallowed by the AO on a different ground that area of operation of the assessee was not confined to its single taluk, and that he has wrongly interpreted the definition of Primary Cooperative Agricultural & Rural Development Bank as given in explanation to section 80P(4) of the Act. In support of its contention, the Id. AR has filed a paper book comprising of 52 pages which is placed on record for reference.

7. The Id. counsel of the assessee placed reliance on the judgment of Hon'ble Apex Court in the case of the Mavilayi Service Co-operative Bank Ltd. v. CIT, Calicut [2021] 123 taxmann.com 161 (SC) page nos. 18 to 44.

8. The Id. DR has supported the order of the CIT(A) and placed reliance on the Hon'ble Apex Court in the case of Citizen Cooperative Society Ltd. v. ACIT Hyderabad [2017] 9 SCC 364.

9. We have heard both the sides and perused the material available on the record and case laws cited before us. The Ld. CIT (A) has mentioned that the appellant is a Cooperative Agricultural Development Bank Ltd. and not a Primary Agricultural Credit Society and also not an Agricultural and Rural Development Bank for the reasons that the activities of the appellant were extended to non-farm sector and also to the non-members; that there are Government employee which were admitted as nominal members just to bypass the legal provisions. In so far as, the area of operation/functional jurisdiction of the appellant bank extends from one taluka to more than one taluka is concerned, this issue remains academic because as per the above the appellant loses its character of Primary Corporative Agricultural and Rural Development Bank and once this is lost, the protection provided in explanation to section 80P(4) of Income Tax Act also vanishes. The Id. CIT(A) has also rejected the appellant assessee alternative plea to allow at least deduction of Rs.50,000/- as contemplated u/s 80P(2)(c) of the Act. The Id. CIT(A) observed that the mandate provides the cutting age to the entire claim of deduction under the main section 80P, where there is no other interpretation that once the appellant falls into the trappings of section 80P(4), it loses complete claim over the deduction under section 80P of Income Tax Act.

10. The Id. Counsel argued that after the introduction of sub section 4 to section 80P of the Income Tax Act, the AO has to mandatory extent the benefits available, merely looking to the class of the society as per the certificate of registration issued under the Central or State Cooperative Societies Act and the rules made therein. However, while considering a

claim of deduction u/s 80P of the Income Tax Act, the Assessing Officer has required to conduct inquiry into the factual situation as to the activities of the assessee society and arrived at the conclusion whether benefit can be extended or not in the light of the provisions of sub section 4 to section 80P of the Income Tax Act, in the instant case. We understand that it is appropriate and rather prerequisite to first ascertain the facts of the case before applying the principle laid down by the higher judicial forums as relied upon by both the sides.

11. Considering the contention of the Ld. Counsel that the appellant assessee has not been granted adequate opportunity of being heard by the Ld. CIT(A), Bathinda while confirming the action of me AO while rejecting the deduction u/s 80P and hold that the activities of the appellant extended to non-farm sector and also to non-members and by way of wrong interpretation to the definition of Primary Co-operative Agricultural & Rural Development Bank as given in Explanation to section 80P(4) of the Act. In the alternative plea, the assessee required to restore the matter to the CIT(A) to adjudicate the issue of the claim of deduction u/s 80P of the appellant bank by recording a finding of fact afresh by passing speaking order by way of enquiry into the activities of the society bank in consonance to the objectives, law an byelaws as per mandate, particularly whether the activities of the appellant extended to non-farm sector and also the non-members by calling for a remand report from the AO and rebuttal to the appellant assessee. Accordingly, we consider that it is fit case to be remanded to the file of the CIT(A) to pass a fresh order after granting

adequate opportunity of being heard to the assessee. The assessee shall cooperate in the fresh proceedings before the Ld. CIT(A).

12. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 11.08.2022.*

**Sd/-**  
**(Anikesh Banerjee)**  
**Judicial Member**

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

*\*GP/Sr.PS\**

Copy of the order forwarded to:

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

True Copy  
By Order