

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA Nos.	निर्धारण वर्ष/ A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी/ Respondent
106/Hyd/23	2016-17	The Tirumala Tirupati Devasthanams Employees Co Op. Credit Society, Tirupati [PAN No. AADAT8396C]	The Income Tax Officer, Ward-1(1), Tirupati
107/Hyd/23	2017-18		
108/Hyd/23	2018-19		

निर्धारिती द्वारा/Assessee by: Shri M. Rajagopal Naidu, AR

राजस्व द्वारा/Revenue by: Shri A. Arun &
Shri Kumar Aditya, DR

सुनवाई की तारीख/Date of hearing: 29/03/2023

घोषणा की तारीख/Pronouncement on: 11/04/2023

आदेश / ORDER

Aggrieved by the order(s) passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of The Tirumala Tirupati Devasthanams Employees Co Op Credit Society ("the assessee") for the assessment years 2016-17, 2017-18 & 2018-19, assessee preferred these appeals. For the sake of convenience, we dispose of these appeals by this common order.

2. Only question that falls my consideration in these three appeals for the assessment years 2016-17 to 2018-19 is the allowability of interest under section 80P(2)(a)(i) of the Income Tax Act, 1961 ('the Act'), derived by the assessee on the deposits in the Andhra Bank and the Indian Bank on the credit balance available therein.

3. Undisputed facts of the case are that the assessee is an Employees Co-operative Credit Society carrying on the business of extending the loan facilities to its members and in that process, the assessee routes both the disbursement of loan and repayment thereof through its accounts with the Andhra Bank and the Indian Bank. Naturally, the bank would be crediting the interest on the credit balances periodically. Assessee pleaded that the credit balances represent the business transactions and, therefore, the interest accrued thereon will also partake the same character, inasmuch as its not the surplus amount that was invested for earning the income, but such credit balances are bound to arise due to the business transactions.

4. Learned Assessing Officer did not agree with the contentions of the assessee but opined that any interest income arising from deposit/investment of funds in banks is in the nature of income from other sources taxable under section 56 of the Act, and cannot be categorized as income from the profits and gains of business of the assessee. He thereby brought the said interest income to tax for all the three years under section 56 of the Act. learned Assessing Officer placed reliance on the decision of the Hon'ble Apex Court in the case of Totgars Co-operative Sale Society Ltd. vs. ITO [2010] 188 Taxman 282 (SC) apart from the decisions of the other Hon'ble High Courts.

5. In appeal, learned CIT(A) concurred with the observations of the learned Assessing Officer and held that under section 80P(2)(d) of the Act the income by way of interest and dividend derived by a co-operative society from its investment with any other co-operative society alone is allowable as deduction but not the interest derived on any investment with any public sector bank with multi state operations. He, accordingly, while placing reliance in Totgars Co-operative Sale Society Ltd. (supra) and other decisions, dismissed the appeal.

6. Learned AR submitted that the line of decisions relied upon by the authorities below have no application to the facts of the case on hand because in this case, no investment as such is made in any bank, but it is only out of the regular business transactions involving the bank accounts, the credit balances arose on which the bank credited the interest quarterly. He, therefore, submits that in such circumstances, it cannot be said that such interest has to be taxed as income from other sources.

7. Learned DR vehemently placed reliance on the orders of the authorities below and the decision of the Hon'ble Supreme Court in Totgars Co-operative Sale Society Ltd. (supra).

8. I have gone through the record in the light of the submissions made on either side. Facts are not in dispute. The decision of the Hon'ble Apex Court in the case of Totgars Co-operative Sale Society Ltd. (supra), is explained by the Hon'ble jurisdictional High Court in the case of The Vavveru Co-operative Rural Bank Ltd. vs. CCIT (2017) [396 ITR 371] (AP), while dealing with the allowability of the interest derived by co-operative societies from out of the investments if any, made. The Hon'ble court observed that, "the case before the Supreme Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) was in respect of a co-operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of marketing agricultural produce of the members of the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) that the business activity other than marketing of the agricultural produce actually resulted in net loss to the society. Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that the assessee did not pay to its members the proceeds of the sale of their produce, but

invested the same in banks. As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members. The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note."

9. In the case on hand, undisputedly, the interest arose on the credit balances with reference to the regular course of business of the assessee. On this aspect, the Hon'ble jurisdiction High Court in Vavveru Co-operative Rural Bank Ltd. (supra), held that, if the original source of the investments made by the petitioners in nationalized banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a), then the character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".

10. It, therefore, goes without saying that the interest credited by the Andhra Bank and the Indian Bank to the account of the assessee on the credit balances does not lose its character as the income derived from the activities of the assessee covered by 80P(2)(a)(i) of the Act. I, therefore, am of the opinion that the disallowed interest in this matter, as a matter of fact is eligible for deduction under section 80P(2)(a)(i) of the Act. Learned Assessing Officer will accordingly delete the disallowance.

11. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on this the 11th day of April, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 11/04/2023

TNMM

Copy forwarded to:

1. The Tirumala Tirupati Devasthanams Employees Co Op Credit Society,
TTD Admin Building, K.T.Road, Tirupati, Tirupati District.
2. Income Tax Officer, Ward-1(1), Tirupati.
3. DR, ITAT, Hyderabad.
4. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD