

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-‘B’ BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 214/Bang/2023
Assessment Year : 2016-17

M/s. Madnalli V V S Bank Ltd., 1, Register Office, Taluka Haliyal, Dist. Uttar Kannada, Madnalli – 581 329. PAN: AAAJM0907C	Vs.	The Income Tax Officer, Ward – 2(3), Hubli. Karnataka.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vishal S Rao, CA
Revenue by	:	Shri Ganesh R Ghale, Advocate- Standing Counsel for Dept.

Date of Hearing	:	24-04-2023
Date of Pronouncement	:	25-04-2023

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against the order dated 20.01.2023 passed by NFAC, Delhi for Assessment Year 2016-17 on following grounds of appeal:

	<i>Grounds of Appeal</i>	<i>Tax effect relating to each Ground of appeal (see note below)</i>
1	<i>The impugned order of the Appellate Commissioner of Income Tax is liable to set aside in so far as the same is incorrect, irregular, improper, unlawful and oppose-to law and facts of the</i>	1,91,152/-

	<i>case.</i>	
2	<i>That the Learned Appellate Commissioner erred in disallowing deduction u/s 80P(2)(a)(i) in respect of the interest of Rs.95,922/- earned on Fixed Deposit made out of Reserve Funds in compliance with Section 57 of the Karnataka Co-operative Societies Act, 1959 and related rules and as such the impugned disallowance is liable to set aside.</i>	29,006/-
3	<i>That the Learned Appellate Commissioner erred in disallowing deduction u/s 80P(2)(a)(i) read with section 80P(2)(d) in respect of the interest of Rs.3,43,961/-earned on Fixed Deposit with KDCC Bank even though the said interest is a business income falling under section 80P(2)(a)(i), the same be.in0 deposited in compliance with Section 58 of the the Karnataka Co-Operative Societies Act, 1959 and as such the, impugned disallowance is liable to set aside.</i>	1,04,013/-
3	<i>That the Learned Appellate Commissioner erred disallowing deduction u/s 80P(2)(a)(i) read with section 80P(2)(d) in respect of the interest of Rs. 87,823/-earned on mandatory investments with KDCC Bank even though the said interest is a business income falling under section 80P(2)(a)(i), the same being mandatorily deposited in compliance with Section 58 of the Karnataka Co-Operative Societies Act, 1959 and as such the impugned disallowance is liable to set aside.</i>	26,557/-
9	<i>That the impugned order is liable to set aside in so far as the Appellate Commissioner erred in upholding the levy of Interest of 47,421/- u/s 234B even when the Appellant is not liable there for under the law.</i>	47,421/-
	<i>Total tax effect (see note below)</i>	1,91,152/-

2. The issues raised by assessee in the present appeal has already been considered in AY 2017-18 vide order dated 21.04.2023 wherein a detailed reasoning has been provided on

identical arguments raised by the Ld.AR as well as the Ld.DR. Considering the facts and circumstances and the legal aspects of the arguments raised, this *Tribunal* had allowed the assessee to claim of deduction on the investments made with Karnataka District Co-operative Banks as well as the interest derived from investments in fixed deposits made with the Karnataka District Co-operative Bank. Respectfully following the view therein, the issues are decided in the present appeal *mutatis mutandis*. For a reference, the order dated 21.04.2023 passed in ITA No. 195/Bang/2023 is annexed herewith as annexure –A.

In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 25th April, 2023.

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 25th April, 2023.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore

ANNEXURE – ‘A’

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-‘A’ BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 195/Bang/2023
Assessment Year : 2017-18

M/s. Madnalli V V S Bank Ltd., 1, Register Office, Taluka Haliyal, Dist. Uttar Kannada, Madnalli – 581 329. PAN: AAAJM0907C	Vs.	The Income Tax Officer, Ward – 1(7), Hubli. Karnataka.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vishal Rao, CA
Revenue by	:	Shri Ganesh R Ghale, Advocate- Standing Counsel for Dept.

Date of Hearing	:	20-04-2023
Date of Pronouncement	:	21-04-2023

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against the order dated 16.01.2023 passed by NFAC for Assessment Year 2017-18 on following grounds of appeal:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The impugned order of the Appellate Commissioner of Income Tax is liable to set aside in so far as the same is incorrect, irregular, improper, unlawful and oppose to the law and facts of the case.</i>	1,00,502/-

2.	That the Learned Appellate Commissioner erred in treating the interest of Rs.97,143/- earned on Fixed Deposit made out of Reserve Funds in compliance with Section 57 of the Karnataka Co-Operative Societies Act, 1959 as Income from other than regular members for disallowing Rs.1,64,478/- u/s 80P(2)(a)(i) read with section 80P(2)(d) of the Income Tax Act, 1961 and as such the impugned disallowance is liable to set aside.	3,296/-
3.	That the Learned Appellate Commissioner erred in treating the interest of Rs.4,43,070/- being the interest earned on Fixed Deposit with KDCC Bank as interest from other than regular members for making disallowance of Rs. 1,64,478/-u/s 80P(2)(a)(i) read with section 80P(2)(d) even though the said interest is a business income falling under section 80P(2)(a)(i), the same being deposited in compliance with Section 58 of the the Karnataka Co-Operative Societies Act, 1959 and as such the impugned disallowance of Rs. 1,64,478/- is liable to set aside.	15,565/-
4.	That the Learned Appellate Commissioner erred in treating the dividend of Rs.2,65,226/- being the dividend earned on mandatory investments with KDCC Bank and TAPCMS as income from other than regular members for making disallowance of Rs.1,64,478/ u/s 80P(2)(a)(i) read with section 80P(2)(d) even though the said dividend is a business income falling under section 80P(2)(a)(i), the same being mandatorily deposited in compliance with Section 58 of the Regulating Act and as such the impugned disallowance of Rs. 1,64,478/- is liable to set aside.	9,317/-
5.	That the Learned Appellate Commissioner erred in not recognizing the fact that the Assessing Officer erred in arriving at the sum of Rs.9,83,201/- as against the actual sum of Rs.8,05,783/- (i.e. Rs.5,40,557 interest + Rs. 2,65,226 dividend) and as such the impugned disallowance of Rs. 1,64,478/- is liable to set aside.	49,343/-
6.	The Learned Appellate Commissioner erred in upholding the addition of Rs.1,70,777/- being the Gross Profit on sale of goods not falling u/s 80P(2)(a) without allowing proportionate direct	51,233/-

	<i>and indirect expenses and as such the impugned addition is liable to set aside.</i>	
7.	<i>The Learned Appellate Commissioner erred in upholding the addition of Rs.1,70,777/- being the Gross Profit on sale of goods not falling u/s 80P(2)(a) as against the disallowance of Net Profit of Rs.34,753/- and as such the impugned addition is liable to set aside.</i>	51,233/-
8.	<i>That the impugned order is liable to set aside in so far as the Appellate Commissioner erred in upholding the levy of Interest of 32,160/- u/s 234B even when the Appellant is not liable there for under the law.</i>	32,160/-
	<i>Total tax effect (see note below)</i>	1,32,662/-

2. Brief facts of the case are as under:

2.1 Assessee is a primary agricultural Co-operative credit society registered under Karnataka Co-operative Societies Act, 1959 by the name Veyasaya Seva Sahakari Sangh Ltd., Madnalli. The Ld.AO has observed that assessee is engaged in activity accepting deposits and providing credit facilities to its members who are farmers and making investments. Assessee has filed its return of income for year under consideration on 23.10.2017 declaring gross total income of Rs.14,04,593/- after claiming deduction u/s. 80P(2)(a)(i) / 80P(2)(d) of the act amounting to Rs.14,04,593/-. The case was selected for scrutiny to examine the deduction under Chapter VIA. Accordingly notice u/s. 143(2) was issued along with questionnaire u/s. 142(1) of the act.

2.2 The Ld.AO noted that assessee had made investments in fixed deposits and had derived interest income there from. On perusal of the details filed by assessee, the Ld.AO noted that assessee claimed deduction u/s. 80P(2)(a)(i) at Rs.6,05,071/- by providing credit facilities as well as trading business. It was also noted that assessee claimed deduction u/s. 80P(2)(d) amounting

to Rs.8,05,783/- for which no details were furnished. The Ld.AO noted that assessee disclosed profit from trading at Rs.1,70,777/- which was credited to the P&L account of the society for which the details of the commodities were not provided. The Ld.AO while passing the assessment order disallowed the claim of assessee u/s. 80P(2)(a)(i) being interest income from investments with Karnataka State Credit Co-operative Banks amounting to Rs.5,40,515/-. Assessee had also earned interest from fixed deposits with KDCC Bank amounting to Rs.4,42,686/- which was also disallowed by applying the decision of *Hon'ble Karnataka High Court* in case of CIT, Hubballi vs. The Totagars Co-op Sale Society, Sirisi in ITA No. 100066/2016 dated 16.06.2017. The Ld.AO however allowed the proportionate expenses incurred by the assessee in order to earn the income from the investments made with KCC Bank and KDCC Bank. In respect of the trading income received by assessee on sale of commodities, the entire amount to the tune of Rs.1,70,777/- was disallowed.

2.3 Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A).

2.4 The Ld.CIT(A) upheld the view of the Ld.AO that KCC Bank and KDCC Bank though were registered under the Co-operative Societies Act were functioning as a bank and providing banking facilities to its members and therefore cannot be treated as a co-operative society. The Ld.CIT(A) thus held that interest from bank deposits and government securities by the assessee in KCC Bank and KDCC Bank fall under the head income from other sources and are not eligible for claiming deduction u/s.

80P(2)(a)(i) / 80P(2)(d) of the act. He thus upheld the deduction being denied by the Ld.AO.

2.5 On the issue of addition of Rs.1,70,777/- being profits from PDS and fertilizer sales, the Ld.CIT(A) was of the opinion that no deduction is admissible for PDS sales except fertilizers and since the assessee did not furnish any details either before the Ld.AO or before the Ld.CIT(A) in respect of other commodities, the Ld.CIT(A) only granted partial relief to the extent of Rs.50,000/- u/s. 80P(2)(c) of the act.

2.6 Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before this *Tribunal*.

3. The Ld.AR submitted that **Ground no. 1** is general in nature and therefore do not require any adjudication.

4. Ground no. 2 is in respect of treating the interest earned by the assessee on fixed deposits made out of reserve funds amounting to Rs.97,143/-.

4.1 The Ld.AR submitted that assessee is mandatorily to make the investment out of the statutory reserve fund as per sections 57 and 58 of the Karnataka State Co-operative Societies Act, 1959 r.w. Rule 23 of Karnataka Co-operative Societies Rules, 1960. The Ld.AR thus submitted that a sum of Rs.13,13,486/- has to be mandatorily invested as term deposit with District Co-operative Banks as per section 57(2) of Karnataka Co-operative Societies Act. He submitted that the said amount invested forms 25% of the net profit earned. The Ld.AR submitted that assessee earned interest of Rs.5,40,557/- out of the investment made. He thus submitted that this interest cannot be treated as income

from other sources as it is directly connected with the profit earned by the assessee from its business activity.

4.2 The Ld.AR submitted that the deduction was denied to the assessee for the reason that assessee has not deposited funds with a co-operative society and that Karnataka District Central Co-operative Bank cannot be considered to be a co-operative society. To this submission, the Ld.AR placed reliance on the decision of *Hon'ble Karnataka High Court* in case of *PCIT v. Totagars Co-operative Sale Society* reported in (2017) 78 *taxmann.com* 169 wherein the *Hon'ble High Court* held that for the purposes of section 80P(2)(d), a co-operative bank that is registered under the co-operative societies act should be considered as a co-operative society and necessary deduction shall be granted.

4.3 On the contrary, the Ld.DR emphasised that Karnataka District Co-operative Bank with whom assessee had made its deposits are performing banking functions and therefore cannot be considered to be a co-operative society.

4.4 I have perused the submissions advanced by both sides in the light of records placed before us.

4.5 There is no dispute that the revenue that the interest earned is out of the profits of the business carried out by the assessee. It is observed by the Ld.AO that the investment made by the assessee was in a co-operative society bank and therefore assessee is not eligible to claim such interests earned u/s. 80P(2)(d) of the act. The assessee in the present case claimed deduction in respect of interest earned from Karnataka District Co-operative Society bank from the gross income of the co-

operative society. Further as per section 57(2) of the Co-operative Societies Act, the assessee is mandatorily to transfer 25% of its net profit to the reserve fund and therefore in our considered opinion, the interest earned on such investment cannot be denied exempt u/s. 80P(2)(d). Coming to the argument of the Ld.AR that Karnataka District Co-operative Bank cannot be considered to be a co-operative society is not acceptable. *Hon'ble Karnataka High Court* has dwelled upon this issue in *PCIT & Ors. v. Totagars Co-operative Sale Society reported in 392 ITR 74* and has held that interest received by a co-operative society from any deposit kept with a co-operative bank is entitled for deduction u/s. 80P(2)(d) of the act. In my opinion, the only condition for availing deduction u/s. 80P(2)(d) is that the interest or dividend as the case may be must be derived by the co-operative society from its investment with other co-operative society.

4.6 *Hon'ble Karnataka High Court* while considering this issue has also considered that section 56(i)(ccv) of the Banking Regulations Act, 1949 defines a co-operative society bank having the meaning of a co-operative society. *Hon'ble High Court* has emphasised that a word “co-operative society” are the words of a large extent, and denotes a genus, whereas the word “co-operative bank” is a word of a limited extent which merely demarcates and identifies a particular species of the genus co-operative societies. *Hon'ble Court* held that co-operative society can be of different nature and can be involved in different activities however, the co-operative society bank is merely a variety of the co-operative societies. *Hon'ble Court* thus held that

co-operative bank which is a species of the genus would necessarily be covered by the word “co-operative society”.

4.7. I find that, CBDT Circular No.14, dated 28.12.2006, makes it clear beyond any scope of doubt that the purpose behind enactment of Sec.80P(4) was that, the co-operative banks which were functioning at par with other banks would no more be entitled for claim of deduction under Sec.80P(4) of the Act.

4.8. I am in agreement with the view expressed by Ld.DR, that with the insertion of sub-section (4) to Sec. 80P of the Act, vide the Finance Act, 2006 with effect from 01.04.2007, the provisions of Sec. 80P would no more be applicable in relation to any co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. However, at the same time, I am unable to subscribe to his view that, the aforesaid amendment would jeopardize the claim of deduction of a ‘co-operative society’ under Sec. 80P(2)(d) in respect of interest income on investments/deposits parked with a co-operative bank.

4.9. I find that the term „co-operative society” had been defined under Sec. 2(19) of the Act, as under:-

“(19) “Co-operative society” means a cooperative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any state for the registration of co-operative societies;”

4.10. Section 80P(4) of the Act, provides that provisions of section 80P shall not be applied in relation to any cooperative bank other than agricultural credit society or any agricultural rural bank. In simple words such cooperative Bank cannot claim deduction u/s.80P(2) & 80P(3) of the Act. Since the assessee before me is not a cooperative bank, but a Primary Agricultural

Credit Society therefore, provisions of section 80P(4) of the Act is not applicable and is therefore entitled to deduction u/s.80P of the Act to the extent allowable as per relevant provisions.

4.11. I am of the view, that, though the co-operative banks pursuant to the insertion of sub-section (4) to Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but as a cooperative bank continues to be a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies, the interest income derived by a co-operative society from its investments held with a co-operative bank would be entitled for claim of deduction under Sec.80P(2)(d) of the Act.

4.12. In my view, as long as it is proved that, the interest income is being derived by a co-operative society from its investments made with any other co-operative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d) would be duly available.

4.13. Reliance was placed by the Ld.DR on the decision of *Hon'ble Supreme Court* in the case of *Totgars Co-operative Sale Society Ltd. vs. ITO* reported in (2010) 188 *Taxman* 282. I am of the view that, the same is distinguishable on facts and is wrongly relied by him. The adjudication by the *Hon'ble Supreme Court* in case of *Totgars Co-operative Sale Society Ltd. vs. ITO(supra)* was in context of Sec. 80P(2)(a)(i), and not on the entitlement of a co-operative society towards deduction under Sec.80P(2)(d) on the interest income on the investments/deposits parked with a co-operative bank.

4.14. I at this juncture refer to subsequent decision of *Hon'ble Karnataka High Court* in the case of *PCIT Vs. Totagars co-operative Sale Society* reported in (2017) 395 ITR 611, wherein *Hon'ble Court* held that, a co-operative society would not be entitled to claim of deduction under Sec. 80P(2)(d). At the same time, we find, that the *Hon'ble Karnataka High Court* in the case of *PCIT & Anr. vs. Totagars Cooperative Sale Society* reported in (2017) 392 ITR 74 and *Hon'ble Gujarat High Court* in the case of *State Bank Of India Vs. CIT* reported in (2016) 389 ITR 578, held, that the interest income earned by a co-operative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act.

4.15. I respectfully following the view taken by the *Hon'ble Karnataka High Court* in the case of *PCIT & Anr. Vs. Totagars Cooperative Sale Society* reported in (2017) 392 ITR 74 and *Hon'ble Gujarat High Court* in the case of *State Bank Of India Vs. CIT* reported in (2016) 389 ITR 578, hold that the interest income earned by a cooperative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act.

Accordingly ground no. 2 raised by the assessee stands allowed.

5. Ground no. 3 is in respect of the interest earned from fixed deposits with Karnataka District Central Co-operative Bank that was denied by the Ld.AO for similar reasons as recorded hereinabove while discussing ground no. 2. Both the Ld.AR and Ld.DR had advanced identical arguments in support of their contentions.

5.1 I have perused the submissions advanced by both sides in the light of records placed before us.

5.2 The sum and substance of the argument is that assessee had parked surplus funds into fixed deposits with Karnataka District Central Co-operative Bank. The Ld.AR submission is that the interest so earned is attributable to the profits and gains of the business of providing credit facilities to its members only and that the society is not carrying on any separate business for earning such interest income. The amount that was invested with the bank on which interest is earned was not due to any members and it was not any liability in other account. On the contrary, the Ld.DR argued that the amount is deposited with a bank and not a co-operative society. He also submitted that Karnataka District Central Co-operative Bank is not a scheduled bank that is approved by the Registrar of Co-operative Societies as per section 58(e) of the co-operative societies act.

5.3 To this submission of the Ld.DR, we rely on our observation in para 4.5 to 4.15 hereinabove and reject the argument advanced and hold that Karnataka District Central Co-operative Bank is a Co-operative Society as per the Karnataka Co-operative Societies Act.

5.4 Now coming to the merits of the disallowance made, the word 'attributable' used in the said Section is of great importance. The Apex Court had an occasion to consider the meaning of the word 'attributable' as supposed to derive from its use in various other provisions of the statute in the case of *Cambay Electric Supply Industrial Co. Ltd. v. CIT* [1978] 113 ITR 84 (at page 93) as under:—

“As regards the aspect emerging from the expression "attributable to" occurring in the phrase "profits and gains attributable to the business of" the specified industry (here generation and distribution of electricity) on which the learned Solicitor-General relied, it will be pertinent to observe that the legislature has deliberately used the expression "attributable to" and not the expression "derived from". It cannot be disputed that the expression "attributable to" is certainly wider in import than the expression "derived from". Had the expression "derived from" been used, it could have with some force been contended that a balancing charge arising from the sale of old machinery and buildings cannot be regarded as profits and gains derived from the conduct of the business of generation and distribution of electricity. In this connection, it may be pointed out that whenever the legislature wanted to give a restricted meaning in the manner suggested by the learned Solicitor-General, it has used the expression "derived from", as, for instance, in section 80J. In our view, since the expression of wider import, namely, "attributable to", has been used, the legislature intended to cover receipts from sources other than the actual conduct of the business of generation and distribution of electricity.”

5.5 Therefore, the word "attributable to" is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to" being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Co-operative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, the society cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the

profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.

5.6 In this context when we look at the decision of *Hon'ble Supreme Court* in case of *Totgars Co-operative Sale Society's* case reported in (2010) 188 *Taxman* 282, relied by the Ld.DR. *Hon'ble Supreme Court* was dealing with a case where the assessee therein, apart from providing credit facilities to the members, was also in the business of marketing of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount payable to its members from whom produce was bought, was invested in a short-term deposit/security. Such amount retained by the assessee therein was a liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P(2)(a)(i) of the Act or under Section 80P(2)(a)(iii) of the Act. On these facts *Hon'ble Supreme Court* held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act. *Hon'ble Supreme Court*, also clarified that, they are confining the said judgment to the facts of that case.

5.7 In the instant case, the amount which was invested in banks to earn interest was not any amount due to its 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 its 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] 336 ITR 516/200 Taxman 220/12 taxmann.com 66.

Accordingly, ground no. 3 raised by assessee stands allowed.

6. Ground no. 4 is in respect of the disallowance of dividend earned from the shares invested with KDCC.

6.1 Both sides reiterated identical arguments and submissions as made and reproduced in Ground nos. 2 and 3. I am of the view that as the dividend is derived from investments made with Karnataka District Central Co-operative Bank which is held hereinabove to a co-operative society, the whole of such income is allowable as deduction.

Accordingly, ground no. 4 raised by assessee stands allowed.

7. Ground no. 5 at this juncture becomes academic as we have allowed the claim of assessee in ground nos. 2-4.

8. Ground no. 6 is in respect of the disallowance made of the treating gross profits without considering the indirect expenses.

8.1 It is the submissions of the Ld.AR that assessee had incurred certain indirect expenses relating to trading of goods. Admittedly the Ld.AR submitted that the amount disallowed by the Ld.CIT(A) is in respect of the PDS that do not fall within the provisions of section 80P(2)(a). However he submitted that certain indirect expenses which are identifiable are to be allowed. The Ld.DR submitted that the above claim of assessee needs verification.

8.2 I have perused the submissions advanced by both sides in the light of records placed before us.

8.3 The Ld.AR has submitted details of the indirect expenses incurred for trading of goods which has been filed along with written submission as under:

Particulars	Amt (Rs.)
Gross Trading Profit	1,70,777.84
Less: Proportionate Indirect Expenses	
Telephone Expenses	6,385.00
Printing and Stationery	4,820.00
Electricity Bill	5,860.00
Property Tax Paid	3,288.00
Daily Wages	54,000.00
Sales Man P.F.	23,604.00
Computer Maintenance	32,098.00
Godown cleaning	3,500.00
Net Trading Profit	37,222.84
Less: Statutory deduction u/s 80P(2)(c)	(50,000.00)
Net Income from Trading (restricted to available income)	NIL

8.4 Though these details were submitted before the Ld.AO, however the same has not been verified. In the interest of justice, we remand this issue back to the Ld.AO for necessary verification and to consider the claim in accordance with law.

Accordingly, ground nos. 6-7 raised by assessee stands allowed for statistical purposes.

9. Ground no. 8 is consequential in nature and therefore do not require any adjudication.

In the result, the appeal filed by the assessee stands partly allowed as indicated hereinabove.

Order pronounced in the open court on 21st April, 2023.

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 21st April, 2023.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore