

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

Before Shri Sanjay Arora, AM & Shri Manomohan Das, JM

ITA No.163/Coch/2023: Asst.Year:2015-2016

ITA No.164/Coch/2023: Asst.Year:2016-2017

Keezhallur Service Co-operative Bank Limited No.F.1455, P.O.Elampara Kannur – 670 595. [PAN: AABAK 8780B]	vs.	The Income Tax Officer Ward 2 Kannur.
(Appellant)		(Respondent)

Appellant by : None  
Respondent by: Smt. J.M. Jamuna Devi, Sr.AR

Date of Hearing : 13.07.2023	Date of Pronouncement: 28.08.2023
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**ORDER**

**Per Bench:**

This is a set of two Appeals by the Assessee, agitating part-confirmation of its assessments under section 143(3) of the Income-tax Act, 1961 ('the Act' hereinafter) for assessment years (AYs.) 2015-16 and 2016-17 by the National Faceless Appeal Centre (NFAC), vide its separate Orders of even date (02.01.2023). The appeals raising identical issues, were heard together, and are being disposed of per a common, consolidated order.

2. The only effective Ground, identically worded, raised per the instant appeals is Ground 2, as under; Gd. 1 being general in nature, warranting no adjudication:

“The learned CIT(A) has erred in treating Rs.10,00,000 (Rs.15,00,000) as the interest received on investments in Treasury Small Savings and Rs.17,217 (Rs.17,217) as interest received on investments with other institutions as these figures are that of the investments itself and not interest. The interest earned on Treasury savings deposit was Rs.36,045(Rs.1,49,949) only.”

[(\*) figures in bracket are for the second year, i.e., AY 2016-2017]

3. The assessee, a society registered under the Kerala Co-operative Societies Act, 1969 as a primary agricultural credit society (PACS), claimed deduction for the entirety of its income for the relevant years u/s. 80P(1) r.w.s.80P(2). The same was disallowed in assessment following the decision in the case of *The Citizen Co-operative Society Ltd. v. Asst. CIT* 397 ITR 1 (SC), so that the assessee, extending the bulk of its loans to nominal members, was, as per the Assessing Officer (AO), hit by sec.80P(4), precluding deduction u/s. 80P. The same was though allowed in appeal, save to the extent of interest on investment in treasury savings and with other institutions, being covered neither u/s.80P(2)(a)(i) nor u/s. 80P(2)(d), relying on *CIT v. Peroorkada SCB Ltd.* [2022] 442 ITR 141 (Ker), by the first appellate authority, holding as under:-

“8.10 In view of the above, respectfully following the latest decision of the Hon'ble jurisdictional High Court of Kerala in the cases of (1) *CIT vs. Peroorkada Service Co-operative Bank*; and (2) *PCIT vs. Vilappil Service Co-op. Bank Ltd.* (2022) 442 ITR 141, order dated 01.11.2021 (supra), I am of the considered opinion that, in the instant case, the assessee society, being a Co-operative Society / PACS, is entitled to claim interest received on fixed deposits made with the District Co-operative Banks and dividend on share capital as deduction u/s.80P(2)(d) of the Act. Accordingly, the AO is directed to allow deduction u/s 80P(2)(d) of the Act in respect of interest and dividend received from the Kannur District Co-operative Bank and other District/ State Co-operative Banks, if any.

8.11 However, it may be noted that the assessee is not entitled to claim deduction in respect of interest and dividend received from any other institutions, other than those registered as Co-operative Society / PACS under the provisions of the Kerala Co-operative Societies Act, 1969. Accordingly, I am of the considered opinion that interest received from investments made in Treasury Small Savings of Rs.10,00,000/- (Rs.15,00,000) and interest from investments in other institutions of Rs.17,217/- (Rs.17,217), aggregating to Rs.10,17,217/- (Rs.15,17,217), is not eligible for deduction either u/s.80P(2)(a)(i) or u/s.80P(2)(d) of the Act. As such, addition made by the AO to the extent of Rs.10,17,217/- (Rs.15,17,217) is sustained. Thus, the grounds of appeal raised by the assessee on the issue are treated as partly allowed.”

[(\*) figures in bracket are for the second year, i.e., AY 2016-2017]

4. We have heard the party before us, and perused the material on record. Without doubt, there is no question of disallowance of deduction of investment *per se*, but only of the interest earned on the relevant investments. This is axiomatic. If, as claimed, the principal sums of the relevant investments have been disallowed, which is a matter of record; rather, would be apparent from the balance-sheet itself, the same ought to be substituted by the income (interest) thereon. This in fact is precisely what the first appellate authority also holds. However, it quantifies the disallowance at Rs.10,17,217 (AY 2015-16) and Rs.15,17,217 (AY 2016-17), which has led to the instant appeals. It ought to have, we think, laying down the principle, directed the Assessing Officer to do the needful.

The matter, accordingly, is set aside to the file of the AO for the same. This perhaps could have been avoided had the assessee presented itself before us, and clarified the relevant sums w.r.t. its audited final accounts, forming part of the assessment record, itself, or even placed some material to that effect on record. The assessee, where required by the AO to, supply the relevant details, which the AO is entitled to verify so as to determine the quantum of disallowance/s under reference.

We decide accordingly.

5. In the result, the assessee's appeals are allowed.

*Order pronounced on August 28, 2023 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963*

Sd/-  
(Manomohan Das)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Cochin; Dated: August 28, 2023  
Devadas G\*

Copy to:

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The Sr. DR, ITAT, Cochin.
5. Guard File.

By Order  
Assistant Registrar  
ITAT, Cochin