

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.750/Bang/2023
Assessment Year : 2017-18

M/s. Deepa Credit Co-operative Society Ltd., Deepa Complex, Deepa Nagar, Bogadi, Mysore – 570 026. PAN : AAAAD 0767 C	Vs.	ITO, Ward – 1(1), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaina Bhatia, CA
Revenue by	:	Shri. Ganesh R Ghale, Advocate, Standing Counsel for Revenue.

Date of hearing	:	07.12.2023
Date of Pronouncement	:	07.12.2023

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 16.08.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. Brief facts of the case are as follows:

Assessee is a co-operative society registered under the Karnataka Co-operative Societies Act, 1959. For the Assessment Year 2017-18, return of income was filed on 29.10.2017 declaring total income of Rs.2,44,400/- after claiming

deduction under chapter VIA, amounting to Rs.23,68,528/-. The assessment was completed under section 143(3) of the Act, vide order dated 16.12.2019, assessing the total income at Rs.31,60,123/-. One of the additions / disallowances was on account of restricting the claim of deduction under section 80P of the Act. The AO held that the interest income received from co-operative banks / scheduled banks is not entitled to deduction under section 80P of the Act, since the same is to be assessed under the head 'income from other sources'.

3. Aggrieved by the Order of Assessment, assessee filed appeal before the First Appellate Authority (FAA). The CIT(A) confirmed the view taken by the AO by holding that the interest income that is received from investments with co-operative banks / scheduled banks are to be assessed under the head 'income from other sources' and the nature of their income cannot be changed to 'business income'.

4. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. Though the assessee has raised several grounds (21 grounds), during the course of hearing, the limited submission of the learned AR was to allow the cost of funds for earning the interest income which is assessed as 'income from other sources'.

5. The learned Standing Counsel supported the orders of the AO and the CIT(A).

6. I have heard the rival submissions and perused the material on record. Assessee had earned interest income of Rs.18,48,817/- on account of investments with co-operative banks / scheduled banks. The limited prayer of the assessee before the Tribunal is to allow the interest cost as a deduction under section 57 of

the Act for earning interest income which is to be assessed under the head 'income from other sources'. The Hon'ble Karnataka High Court in the case of Totgars Co-operative Sale Society Ltd., Vs. ITO reported in (2015) 58 taxmann.com 35 (Karnataka) had categorically held that where an assessee, a co-operative society, earns interest on deposits kept with scheduled banks; only the net interest income can be taxed under section 56 of the Act (i.e., the interest income reduced by the administrative expenses and other proportionate expenses to earn the said income).

7. The relevant find of the Hon'ble jurisdictional High Court reads as follows:

"11. It is no doubt true that the appellant did initially claim deduction under Section 80P(2). Upon the pronouncement of the order by the Apex Court, in these appeals referred to supra, the income earned on the interest is declared as "other income" falling under Section 56 of the Income Tax Act. Then the next immediate question that follows is as to whether the entire fund i.e., in deposit with the Bank is taxable or the proportionate expenditure incurred by the appellant requires deduction. It is logical that when the Revenue is permitted to assess and recover taxes from assessee under Section 56 by treating the income earned by interest as income from "other sources", the appellant shall be entitled for proportionate expenditure cost incurred in mobilizing the deposit placed in the Bank/s. What can be taxed is only the net income which the appellant earns after deducting cost and expenditure incurred and administrative expenses incurred by the assessee.

12. Accordingly, we answer the question of law and hold that the Tribunal was not right in coming to the conclusion that the interest earned by the appellant is an income from other sources without allowing deduction in respect of the proportionate costs, administrative expenses incurred in respect of such deposits. In the result, we pass the following:

ORDER

- (i) Appeals are allowed in part.*
- (ii) Order of the Tribunal in disallowing deduction in respect of cost of funds and proportionate administrative and other expenditure in respect of funds placed in deposit is set aside.*

- (iii) *All other contentions urged by the parties are kept open.*
(iv) *Matter is remanded to the adjudicating authority for quantification of the cost incurred by the appellant and deduction thereof under Section 57(3) of the Act and to pass orders in accordance with law.*
(v) *Ordered accordingly.”*

8. In view of the aforesaid judgment of the Hon'ble High Court, we restore the matter to the AO. The AO is directed to calculate the cost of funds for earning the interest income which has to be assessed under section 56 of the Act and allow the same as deduction under section 57 of the Act. It is ordered accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore.

Dated: 07.12.2023.

/NS/*

Sd/-

(GEORGE GEORGE K)
Vice President

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.