

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

Before Shri Sanjay Arora, Accountant Member and
Dr. S. Seethalakshmi, Judicial Member

ITA No. 361/Coch/2012
(Assessment Year: 2009-10)

Ramanthali Service Co-op. Bank Ltd. Ramanthali Payyanur 670364 [PAN:AAAJR0310C]	vs.	The Income Tax Officer - 4 Aayakr Bhavan, Kannthumchal Kannur - 670364
(Appellant)		(Respondent)

Appellant by:	Shri Arun Raj S., Advocate
Respondent by:	Smt. J.M. Jamuna Devi, Sr. D.R.

Date of Hearing:	12.12.2023
Date of Pronouncement:	12.12.2023

ORDER

Per: Sanjay Arora, AM

This is an Appeal by Assessee arising out of the Order dated 21.09.2012 by the Commissioner of Income Tax (Appeals)-2, Kochi [“(CIT(A) for short], partly allowing it’s appeal contesting it’s assessment u/s. 144 of the Income Tax Act, 1961 (the Act) dated 22.12.2011 for Assessment Year (AY) 2009-10.

2.1 The background facts of the case are that the instant appeal was in the first instance disposed of by the Tribunal, dismissing it, vide order dated 21.11.2014. This order was set aside by the Hon'ble High Court vide it’s judgement dated 16.2.2016 (in ITA No. 99/2015). The Tribunal passed a fresh order on 14.03.2017, partly allowing the assessee’s appeal, against which the Revenue filed a Miscellaneous Application (No. 242/Coch/2021), in view of the decision in *Chirakkal Service Co-operative Bank Ltd. v. CIT*[2016] 384 ITR 490 (Ker), which was accepted by the Tribunal vide it’s order u/s. 254(2) of the Act dated 16.09.2022, recalling it’s order dated 14/3/2017

for adjudication afresh *qua* the deduction u/s. 80P of the Act. At the time of hearing, it was explained by Shri Raj, the learned counsel for the assessee, that the assessee had since moved the Hon'ble High Court under its writ jurisdiction, and which vide its order dated 18.09.2023 (in WP(C) No. 30488/2023/copy on record) found that the Revenue's application, filed on 30.9.2019, was not maintainable inasmuch as it was filed beyond the six month limitation period, i.e., from the end of the month in which the order sought to be rectified u/s. 254(2) stands passed. As such the order dated 16.9.2022 obtains no longer, and the Tribunal's order dated 14.3.2017 would, accordingly, stand.

2.2 Smt. Devi, the learned Sr. DR, fairly conceded in the matter.

3. In view of the foregoing, the Tribunal's order dated 14.3.2017 would continue to hold, i.e., the Tribunal's adjudication per the said order is hereby confirmed. We decide according.

4. In the result, the assessee's appeal is allowed.

Order pronounced in open court on December 12, 2023 the conclusion of the hearing

Sd/-
(Dr. S. Seethalakshmi)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Cochin, Dated: December 12, 2023
n.p.

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