

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.968/Bang/2023
Assessment Year : 2017-18

M/s. Vande Matharam Vividhodesha Souharda Sahakari Ltd., 4-41 (E), 1 <sup>st</sup> Floor, Magarantha Complex, Moodbidri – 574 227. <b>PAN : AAAAV 9488 L</b>	Vs.	ITO, Ward – 2(2), Mangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sriram Rao, CA
Revenue by	:	Shri. Ganesh R Ghale, Standing Counsel for Revenue.

Date of hearing	:	18.01.2024
Date of Pronouncement	:	18.01.2024

**ORDER**

*Per George George K, Vice President:*

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 30.09.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. The solitary issue that is raised is whether CIT(A) is justified in confirming the disallowance of claim of deduction under section 80P of the Act, to the extent of Rs.10,51,879/-.

3. Brief facts of the case are as follows:

Assessee is a souharda co-operative registered under the Karnataka Souharda Sahakari Act, 1997. It is primarily formed to provide credit facilities to its members. For the Assessment year 2017-18, the return of income was filed on 09.12.2017 declaring 'Nil' income, after claiming deduction amounting to Rs.47,05,037/- under section 80P of the Act. The assessment was selected for scrutiny and notice under section 143(2) of the Act was issued on 13.08.2018. Assessment was completed vide order dated 28.02.2019 under section 143(3) of the Act. In the said Assessment Order, AO denied the claim of deduction under section 80P of the Act. The AO held that assessee is not a co-operative society registered under the Karnataka Co-operative Societies Act, 1959. Incidentally, the AO also observed that out of total claim of deduction under section 80P of the Act, a sum of Rs.10,51,879/- was interest income received from District Central Co-operative Bank. It was concluded by the AO that the aforesaid sum of Rs.10,51,879/- is to be assessed as "income from other sources" and no deduction is allowable under section 80P(2)(a)(i) or under section 80P(2)(d) of the Act.

4. Aggrieved by the order passed under section 143(3) of the Act, assessee filed appeal before the First Appellate Authority. The CIT(A) partly allowed the appeal of the assessee. The CIT(A) held that assessee is also a co-operative society though not registered under the Karnataka Co-operative Societies Act, 1959. The CIT(A) relied on the judgment of the Hon'ble jurisdictional High Court in the case of Karnataka State Federal Co-operative Ltd., in WA No.378/2020 (judgment dated 20.12.2021). The CIT(A), however, restricted the claim of deduction under section 80P of the Act to Rs.36,53,158/- as against the deduction claimed by the assessee of Rs.47,05,037/-. As regards the balance amount of Rs.10,51,879/-, the CIT(A) confirmed the view of the AO. The CIT(A) held that since assessee had received interest income from central co-operative bank, the same is not allowable for deduction under section 80P(2)(a)(i) or under section 80P(2)(d) of the Act. In

this context, the CIT(A) relied on the judgment of the Hon'ble jurisdictional High Court in the case of PCIT Vs. Totgars Sales Society reported in 395 ITR 611 (Karnataka).

5. Aggrieved, assessee has filed the present appeal before the Tribunal. The learned AR has filed a Paper Book enclosing therein the case laws relied on, written submissions filed before the CIT(A), etc. The learned AR's limited contention was that if the amount of interest income that is received from SCDCC Bank is to be assessed as "income from other sources", the cost of funds for the same is to be allowed as deduction under section 57 of the Act. In this context, the learned AR relied on the judgment of the Hon'ble jurisdictional High Court in the case of Totgars Sales Co-operative Society Ltd., Vs. ITO, reported in (2015) 58 taxmann.com 35 (Karnataka).

6. The learned Standing Counsel supported the order of the CIT(A).

7. We have heard the rival submissions and perused the material on record. The limited submission of the learned AR is to allow cost of funds as a deduction with regard to interest income which is assessed as income from other sources. The Hon'ble jurisdictional High Court in the case of Totgars Sales Society Ltd., Vs. ITO (supra) had restored the matter to the AO directing him to allow the cost of funds for the interest income which is assessed as income from other sources. Following the dictum laid down by the Hon'ble jurisdictional High Court in the case cited supra, we restore the matter to the AO. The assessee is directed to work out the cost of funds for the interest income amounting to Rs.10,51,879/- and place the same before the AO. The AO shall afford reasonable opportunity of hearing to the assessee before a decision is taken in the matter. It is ordered accordingly.

8. 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/-**

**(CHANDRA POOJARI)**  
**Accountant Member**

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 18.01.2024.

/NS/\*

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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.