

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

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

ITA No.930/Bang/2023
Assessment Year : 2018-19

M/s. Moodbidri Co-operative Service Bank Ltd., Door No.192, Main Road, Moodbidri – 574 227. PAN : AABAM 7065 K	Vs.	ITO, Ward –2(1), Mangaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. V. Srinivasan, Advocate
Revenue by	:	Shri. D. K. Mishra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	09.01.2024
Date of Pronouncement	:	11.01.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against PCIT’s order dated 03.11.2023, passed under section 263 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2018-19.

2. The grounds raised read as follows:

1. *The order of the learned P.C.I.T passed u/s. 263 of the Act in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*
2. *The learned P.C.I.T failed to appreciate that there was no error much less an error prejudicial to the interest of the revenue in the order passed by the learned Assessing Officer warranting revision u/s.263 of*

the Act and consequently, the order passed by the P.C.I.T. requires to be cancelled.

3. *The learned P.C.I.T. is not justified in holding that the order of assessment passed u/s. 143[3] of the Act, dated 15/06/2021 was erroneous and prejudicial to the interest of revenue on the ground that the same was not passed in accordance with the decision of the Hon'ble Supreme Court and Jurisdictional High Court of Karnataka prejudicial to the interests of the assessee under the facts and in the circumstances of the appellant's case.*
4. *The learned PCIT ought to have appreciated that the interest income earned by the appellant on deposits in SDCC bank and other nationalized banks was regarded as income under the head "Other Sources" and therefore, the appellant had neither claimed as deduction u/s. 80P[2][a][i] or u/s. 80P[2][d] of the Act in first instance at all and therefore, the assessment order passed by the learned A.O. u/s. 143(3) cannot be considered as prejudicial to the interest of revenue under the facts and in the circumstances of the appellant's case.*
5. *Without prejudice to the above, the learned PCIT ought to have appreciated that the interest income earned by the appellant was in the nature of operational income in as much as the interest earned was from out of the funds of the business of providing credit facilities to the members of the appellant for which detailed submissions were made before the learned A.O., who had accepted that the said interest was liable for assessment under the head "Business" and not under the head "Other Sources" and therefore, there was no error in the deduction allowed to the appellant u/s 80P[2][a][i] of the Act by the learned A.O. vide the order of assessment passed u/s. 143[3] of the Act, dated 15/06/2021 under the facts and in the circumstances of the appellant's case.*
6. *Without prejudice, the learned P.C.I.T is not justified in law in directing the learned A.O to deny the alternate claim for deduction u/s 80P[2][d] of the Act to the extent of interest income earned from co-operative banks which are nothing but co-operative*

societies in possession of a license from the RBI under the facts and in the circumstances of the appellant's case.

7. *Without prejudice to the above, the learned PCIT ought to have directed the learned A.O. to allow the deduction u/s. 57 of the Act towards cost of funds should the interest income be assessed under the head "other sources" under the facts and in the circumstances of the appellant's case.*
8. *For the above and other grounds that may be urged at the time of hearing of the appeal. your appellant humbly prays that the appeal may be allowed and Justice rendered.*

3. 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 2018-19, return of income was filed on 27.09.2018 declaring total income of Rs.3,54,560/-, after claiming deduction under section 80P of the Act, amounting to Rs.10,86,21,367/-. The assessment was selected for scrutiny and notice under section 143(2) of the Act was issued on 22.09.2019. During the course of assessment proceedings, it was noticed that assessee had earned interest income from investments in scheduled bank and central co-operative banks other than co-operative society amounting to Rs.3,67,72,071/-. The bifurcation of the interest income of Rs.3,67,72,071/- is as under :

Sl. No.	Name of the Bank	Interest received(Rs)
1.	SCDCC Bank	3,53,68,999/-
2.	Other Banks	14,03,072/-
	Total	3,67,72,071/-

4. During the course of assessment proceedings, assessee was directed to explain how the aforesaid interest amounting to Rs.3,67,72,071/- was entitled to

deduction under section 80P(2)(a)(i) of the Act. In response to the show cause notice, assessee filed its submissions dated 13.04.2021 wherein it was submitted that interest income earned from FDs with SCDCC Bank Ltd., is out of statutory compulsions as mandated under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules, hence liable to be assessed under the head 'profits and gains of business / profession' entailing the benefit of deduction under section 80P(2)(a)(i) of the Act. The AO held that the interest income earned out of the investments in FDs amounting to Rs.3,58,68,999/- is to be allowed as a deduction under section 80P(2)(a)(i) of the Act, since assessee was under statutory obligation to make investments in such FDs. However, with regard to a sum of Rs.14,03,072/- earned as interest from bank account maintained with other banks / financial institutions, the same was disallowed and added back to the total income of the assessee society. The AO, thus accepting the argument of the assessee with regard to allowability of deduction under section 80P(2)(a)(i) of the Act towards interest income earned from term deposits maintained with SCDCC Bank Ltd. Thus, AO allowed deduction to the extent of Rs.10,72,18,295/- after disallowing a sum of Rs.14,04,072/- earned by the assessee from deposits with scheduled banks and other financial institutions.

5. Subsequently, assessee received show cause notice dated 16.10.2023 under section 263 of the Act from the PCIT which reads as under:

“In your case, the National e-assessment Centre, Delhi has passed an assessment order u/s 143[3] rws 144B of the Income-tax Act, 1961(the Act) for the assessment year 2018-19 on 15/06/2021, assessing a total income of Rs. 17,57,632/-1.

2. *On perusal of the assessment records, it is seen that you have received interest income from various banks including cooperative banks to the tune of Rs. 3,67,72,071/- (SCDCC Bank —Rs.*

3,53,68,999/- + Other Banks — Rs. 14,03,072/-). . As per the provisions of section 80P[4] of the I T Act, 1961, deduction U/s 80P is not allowable on income received from banks including cooperative banks. The Hon'ble Supreme Court in the case of Totgar's Society (188 taxmann 282) has held that the interest earned on deposits with banks fall under the category of "Income from Other Sources", which are not eligible for deduction U/s 80P of the I T Act, 1961. The AO in his assessment order has applied the above legal provisions only in respect of interest received from Savings Blank account only amounting to Rs. 14,03,072/-. The AO ought to have considered the interest received from SCDCC Bank of Rs. 3,53,68,999/- as income from other sources and disallowed the deduction U/s 80P in respect of income arising from this receipt also.”

6. On receipt of the aforesaid notice, assessee filed objections vide its letter dated 26.10.2023 to the proposed revision proceedings under section 263 of the Act. Assessee submitted that there is no error prejudicial to the interest of the Revenue. It was contended that interest income received from term deposits with SCDCC Bank Ltd, is on account of investment made out of statutory compulsion and is very much part of the operational income entailing the benefit of deduction under section 80P(2)(a)(i) of the Act. However, the PCIT rejected the contention of the assessee and passed the impugned order under section 263 of the Act on 03.11.2023. The relevant finding of the PCIT reads as follows:

"6. As seen from para 10 of the order of Karnataka High Court in the case of Totagars Co-operative Sales Society (395 ITR 611), the said assessee was also accepting deposits from its members and provides credit facility to its members in addition to the other activities of marketing of agricultural produce. Even under such circumstances Hon'ble Supreme Court has held such income as not part of operational income in the decision reported in 322 ITR 283. When the interest so received from co-operative bank is not operational income as held by the Apex Court deduction u/s 80P(2)(a)(i) cannot be granted on such income. Further, such income i.e. income from SCDCC Bank is not eligible for deduction U/s 80P(2)(d) in view of the binding

decision of Karnataka High Court in the case of Totagars Co-operative Sales Society reported in 395 ITR 611. Although Authorized representative of the assessee quoted another decision of Karnataka High Court in this issue, the same was rendered in January 2017 i.e prior to the decision reported in 395 ITR 611. As per the ratio laid down in Govinda Nayak v/s Western Patent Press Company Limited AIR 1980 KAR 92(FB) the later decision will have more binding force than the earlier one. Considering the above, it is held that assessee is not eligible for deduction of such income u/s 80P(2)(d) also. Assessing Officer may pass consequential order".

7. Aggrieved by the order of the PCIT passed under section 263 of the Act, assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book enclosing therein the return of income filed along with computation of total income, the financials for the Assessment Year 2018-19, copy of the notices issued under section 142(1) of the Act, copy of the order of Registrar of Co-operative Societies directing the co-operative banks to park certain funds as a statutory SLR/CRR, etc. The learned AR reiterated the submissions made before the PCIT. The learned AR submitted that the order of the assessment is not erroneous or prejudicial to the interest of the Revenue. It was submitted that the investment with SCDCC Bank Ltd., was made on account of compulsions as per the Karnataka Co-operative Societies Act, 1959, and the Rules. Therefore, it was submitted that receipt of the said interest income is very much part of the operational income which is to be assessed under the head "profits and gains from business / profession" which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act.

8. The learned DR strongly supported the orders of the AO and the CIT(A).

9. We have heard the rival submissions and perused the material on record. Assessee had claimed deduction of Rs.10,89,75,925/- under section 80P of the

Act. During the course of assessment proceedings, it was noticed that out of the above said amount, a sum of Rs.3,67,72,071/- was received as interest income on investments made by the assessee with SCDCC Bank Ltd., the jurisdictional nodal bank for the primary agricultural credit society in the district of Dakshina Kannada. The AO, during the course of assessment proceedings, had issued several notices under section 142(1) of the Act calling for the assessee to justify its claim of deduction under section 80P of the Act in respect of interest income received from SCDCC Bank Ltd., amounting to Rs.3,67,72,071/-. The AO also issued a show cause notice directing the assessee to explain why the said interest income should not be assessed under the head "Income from Other Sources" and denied the benefit of deduction under section 80P of the Act. In the said show cause notice, the AO has referred to the judgment of the Hon'ble Apex Court in the case of Totagar Co-operative Sales Society Vs. ITO reported in 322 ITR 283 (SC) as well as the judgment of the Hon'ble jurisdictional High Court in the case of PCIT Vs. Totagar Co-operative Sales Society reported in 395 TR 711 (Karnataka). A copy of the show cause notice issued by the AO has been placed on record from pages 90 to 101 of the Paper Book filed by the assessee. In response to the show cause notice, assessee had categorically contended that the investment with SCDCC Bank Ltd., is as per statutory requirement and not made out of choice to earn extra profits. In this context, assessee submitted that it is part of the operational income and the same is to be assessed under head 'income from business / profession' which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act. The AO accepted the contention of the assessee and completed the assessment by granting deduction under section 80P of the Act with reference to interest income received on FD investments with SCDCC Bank Ltd. The relevant finding of the AO in this regard reads as follows (refer page 3 of the Assessment Order):

“....

In light of the submission of the assessee and the various judicial pronouncements of the apex court regarding income earned from statutory investments by those engaged in banking activities the amount of Rs. 3,53,68,999 earned as interest from deposits SCDCC bank is allowed being statutory obligation to fulfill the directions of the RBI.”

10. The AO only disallowed a sum of Rs.14,03,072/- received as interest from savings bank account with SCDCC Bank Ltd. Therefore, there was a categorical finding by the AO that a sum of Rs.3,53,68,999/- received by the assessee as interest on FDs with the SCDCC Bank Ltd., is out of statutory obligation and to fulfil the directions of the RBI. The investments made by assessee Society in Fixed Deposits and Shares with SCDCC Bank [District Central Co Operative Bank] is not the surplus funds available but are done only to be compliant of the statutory requirement as detailed below :

a) It is mandatory for a Co Operative Society registered under the KCS Act 1959 to liquidity by investing a minimum of 25% of the Total Deposits accepted by it from Members as Fixed Deposit with District Central Co Operative Bank as SLR Investment and a min of 3% of the Total Deposits as Cash Reserve Ratio (CRR). Communication received in this regard from SCDCC Bank Limited, the jurisdictional nodal Bank for the Primary Agricultural Credit Co Operative Societies in the district of Dakshina Kannada was placed.

b) Under Sec 57 (2) of the Karnataka Co Operative Societies Act 1959 , It is mandatory for a Co Operative Society registered under the KCS Act 1959 to set aside a minimum of 25% of its Net Profit and credit it to Reserve Fund Account every year . Sec 57 of the KCS Act 1959 is re-produced here below:

57. Net profits and their disposal.- (1) The net profits of co-operative societies shall be determined in accordance with such rules as may be prescribed and different rules may be made for different classes of co-operative societies.

(2) A co-operative society shall, out of its net profit in any year transfer an amount not being less than twenty-five per cent of the profits to the reserve fund.

*(3) ******

c) Further, as per the directives issued by the Registrar of Co-operative Societies Karnataka and as per assessee's Bye Law, the balance held in Reserve Fund shall not be utilised as working capital and shall be invested outside the business as stipulated in Sec 58 of the KCS Act 1959. By Law No.26.2 of the assessee also mandates that the Reserve Fund shall be invested as specified in the Act.

d) It is mandatory for a Co-operative Society registered under the KCS Act 1959 to maintain 3 % of the Total Deposits accepted by it from Members as Cash Reserve Ratio.

11. Details of assessee Total Deposits, SLR Investments mandatorily required, Reserve Fund Investment which is statutorily required etc., is as under :

Particulars	Investment which is Statutory in Nature	Investments held as at 31-03-2018
25% of our Total Deposits from Members mandatorily required to be invested as SLR with District Central Co Op Bank — 25% of Rs 270,61,58,909	67,65,39,727	20,59,76,231

Balance in Reserve Fund as at 31-03-2018, which is statutorily required to be invested in District	22,38,22,197	22,38,22,197
TOTAL	90,03,61,924	42,97,98,428

12. From the above, it is obvious that assessee's entire Investment of Rs 42,97,98,428 as on 31-03-2018 in SCDC Bank Limited is the Statutorily required investment and not made out of choice to earn extra profit. Total Investment required to be made as per the Act is Rs 90.03 Crores whereas actual investment is only Rs 42.98 Crores. Hence, Interest Income of Rs 3,53,68,999 is chargeable under the head "Profits and Gains of Business or Profession". Therefore, the same is eligible for deduction u/s 80P(2)(a)(i) of the Act.

13. Moreover, we find that for the immediately preceding Assessment Year viz., 2017-18, assessee had earned interest income out of investments with SCDC Bank Ltd., of a sum of Rs.6,26,78,196/-. The same was brought to tax by the AO in the Assessment Order for Assessment Year 2017-18 as "income from other sources" and the claim of deduction under section 80P of the Act was rejected. On further appeal, the CIT(A) allowed the claim of the assessee for the Assessment Year 2017-18 and held that the said interest income received by the assessee is out of statutory compulsions and is part of operational income entitled to deduction under section 80P(2)(a)(i) of the Act. The relevant finding of the CIT(A) reads as follows:

"I have carefully considered the facts of the case, the assessment order, written submissions of the appellant, case laws, CBDT's Circular and provisions of Sec 28 of Karnataka Co-Operative Societies Act 1959 referred by the appellant during the appellate proceedings. It is an undisputed fact that the appellant filed the return of income for AY 2017-18 on 27.10.2017 with the claim of deduction u/s 80P(2)(a)(i) of the Act to the tune of Rs. 8,73,74,417/-, which has been denied by

the AO on three counts. Firstly, the interest income on investment with District Central Co-operative Society is not a business income and has to be assessed under Income from other sources. Secondly, AO held that the appellant is engaged in credit facility not only with regular members but also with nominal members, which doesn't have the benefit of profit of the society. The contention of the AO is that any earning from non-regular member is distributed amongst regular member which does not fall within the ambit of concept of mutuality. Thirdly, the interest income of saving bank account is an income assessable under the head Income from other sources and deduction u/s 80P(2)(d) of the Act is not allowable as the interest income was not received from cooperative society but it was received from Scheduled bank and co-operative bank. Therefore, entire deduction was not allowable on these incomes. After consideration of all facts of the case with the circular dated 06.05.2014 issued by the Managing Director of the Sou Canallict Central Co-operative Bank Limited, I find that all primary co-operative society has to be mandatorily made investment of 25% of total deposits as Liquid Fund (SLR) and 3% of the total deposits as Cash Reserve (CRR) with the concerned District Central Co Operative society in the state of Karnataka. Further, the CBDT's Circular No.18/2015 dated 02.11.2015 has clarified that the interest income from SLR / Non SLR investments by a banking company and co -operative societies shall be chargeable under the head "Profits and Gains of Business or Profession". In view of these Circulars, I don't find any merit in the AO's treatment of interest and dividend income of Rs.6,26,78,196/- on such investment under the head "Income from Other Sources" because the appellant is obliged to maintain these investment with concerned DCCB for running the credit facility. Thus, the nature of interest income on investment with SCDCC Bank Ltd is a business income."

(emphasis supplied)

14. The above order of the CIT(A) for the Assessment Year 2017-18 has been given effect vide order dated 17.12.2023. The order of the CIT(A) for Assessment Year 2017-18 wherein it has been held that interest income received on FDs with SCDCC Bank Ltd., is out of statutory compulsions, and is part of operational income, has not been challenged by the Revenue before the Tribunal.

15. The Bangalore Benches of the Tribunal in several cases had held that when interest income is received out of the investments on account of statutory compulsions, the same is to be assessed as “income from business” entailing the benefit of deduction under section 80P(2)(a)(i) of the Act. The Bangalore Benches of the Tribunal in the case of M/s. Vasavamba Co-operative Society Ltd., Vs. PCIT in ITA No.453/Bang/2020 (order dated 13.08.2021), after considering various judicial pronouncements including the judgment of the Hon’ble Apex Court in the case of Totagar Co-operative Sales Society Vs. ITO reported in 322 ITR 283 (SC) and the jurisdictional High Court’s judgment in the case of PCIT Vs. Totagar Co-operative Sales Society reported in 395 TR 711 (Karnataka) had held that if the interest income is received out of investments on account of statutory compulsions, the same needs to be examined by the AO as to whether the aforesaid income is to be assessed as “income from business/profession”. The grounds raised before the Bangalore Bench of the Tribunal in the case of M/s. Vasavamba Co-operative Society Ltd., Vs. PCIT (supra) reads as follows:

“5. Without prejudice to the above, the learned Principal Commissioner ought to have considered the submissions of the appellant to the effect that interest received by it amounting to Rs. 1,32,726 from deposits with Mysore & Chamarajanagar District Central Co-operative Bank made out of Reserve Fund in compliance with rule 23(2) of the Karnataka Co-operative Societies Rules, 1960 constituted its income from the business of providing credit facilities to the members and accordingly, ought to have held that the Income Tax Officer rightly allowed deduction thereof under section 80-P(2)(a)(i) of the Income Tax Act, 1961.

6. Without prejudice to the above, the learned Principal Commissioner ought to have taken note of the submissions made by the appellant that interest received by it amounting to Rs. 1,32,726 from deposits with Mysore & Chamarajanagar District Central Co-operative Bank made in compliance with section 58 of the Karnataka Co-operative Societies Act, 1959 constituted its income from the

business of providing credit facilities to the members and accordingly, ought to have held that the deduction under section 80-P(2)(a)(i) of the Income Tax Act, 1961 in respect thereof was rightly allowed by the Income Tax Officer.

7. *Without prejudice to the above, the learned Principal Commissioner ought to have considered the submissions of the appellant to the effect that the interest received by it amounting to Rs. 1,32,726 from deposits with Mysore & Chamarajanagar District Central Co-operative Bank made in compliance with rule 28 of the Karnataka Co-operative Societies Rules, 1960 constituted its income from the business of providing credit facilities to the members and accordingly, ought to have held that the appellant was eligible for deduction thereof under section 80-P(2)(a)(i) of the Income Tax Act, 1961.”*

16. With reference to the above grounds, the Tribunal restored the matter to the AO with the following observations:

“18. The issue raised by the Assessee in the aforesaid grounds require examination because if there are statutory compulsions that the money should be invested in a particular manner to run business of the Assessee then the interest income arising from such investments have business nexus and should be considered as income derived from the business of providing credit facility to the members. This aspect requires examination by the AO as it has not been raised before the CIT. We therefore modify the order of the CIT by remanding the issue raised in ground No.5 to 7 alone to the AO for examination afresh. In other respects we confirm the order of the CIT.”

17. In the following cases, the Bangalore Bench of the Tribunal had directed the AO to examine whether the investments are out of statutory compulsions, and if so, the interest income received from same ought to be assessed as income from business entailing the benefit of deduction under section 80P(2)(a)(i) of the Act:

- M/s. Kachur Credit Co-operative Society Ltd., Vs. ITO in ITA No.478/Bang/2023 (order dated 26.09.2023)
- M/s. S. K. Goldsmiths Industrial Co-operative Society Ltd., Vs. ITO in ITA No.771/Bang/2023, (order dated 12.12.2023)
- Sri Jihveshwara Credit Co-op. Society Ltd., Vs. ITO in ITA Nos.547 to 551/Bang/2023 (order dated 29.09.2023).
- M/s. Deepa Credit Co-operative Society Ltd., Vs. ITO in ITA No.750/Bang/2023 (order dated 07.12.2023).

18. In the case of M/s. S. K. Goldsmiths Industrial Co-operative Society Ltd., Vs. ITO (supra), the relevant finding of the Tribunal reads as follows:

“9. We have heard the rival submissions and perused the material on record. The first contention of the learned AR is that investments are made with the Central Co-operative Bank and is in compliance with the requirements under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules. Therefore, it was contended that such interest income received on investments made under compulsion under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules, is entitled to benefit of deduction under section 80P(2)(a)(i) of the Act. We find that this issue has been considered by the Bangalore Bench of the Tribunal in the case of M/s. Kachur Credit Co-operative Society Ltd., Vs. ITO (supra). The Bangalore Bench of the Tribunal had followed its earlier orders. The relevant finding of the Bangalore Bench of the Tribunal reads as follows:

“8. I have heard the rival submissions and perused the material on record. The solitary issue for adjudication is whether a sum of Rs.5,07,822/- can be allowed as a deduction under sections 80P(2)(a)(i) of the Act. Admittedly, the amount of Rs.5,07,822/- has been received by the assessee from South Canara District Central Co-operative Bank Ltd. It is the claim of the assessee that the amounts are invested in compliance with the relevant Acts and Rules. On identical facts, the Bangalore Bench of the Tribunal in the case of Bharat Co-operative Credit Society Vs. ITO (supra) by following the Co-ordinate Bench’s order in the case of Vasavamba Co-operative Society Ltd., Vs. PCIT in

ITA No.453/Bang/2020 (order dated 13.08.2021) had stated that if the investments made with the Central Co-operative Bank is out of compulsions under Karnataka State Co-operative Societies Act, 1959 and Rules, the income received from such investments would be entitled to the benefit of deduction under section 80P(2)(a)(i) of the Act. The relevant finding of the Tribunal in the case of Bharat Co-operative Credit Society Vs. ITO (supra) reads as follows:

“7.1 In the instant case, it was contended that majority of the interest income is earned out of investments made with Cooperative Banks and is in compliance with the requirement under the Karnataka Co-operative Societies Act and Rules. If the amounts are invested in compliance with the Karnataka Co-operative Societies Act, necessarily, the same is to be assessed as income from business, which entails the benefit of deduction u/s 80P(2)(a)(i) of the I.T.Act. Insofar as deduction u/s 80P(2)(d) of the I.T.Act is concerned, we make it clear that interest income received out of investments with cooperative societies is to be allowed as deduction.”

9. In view of the above order of the Tribunal, I restore the issue to the files of the AO to examine whether interest income received amounting to Rs.5,07,822/- from South Canara District Central Co-operative Bank Ltd., is out of compulsions and in compliance with the Karnataka State Co-operative Societies Act, 1959 and the relevant Rules. If it is so, the same interest income is to be assessed as income from business which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act. With the aforesaid observation, I restore the matter to the AO. It is ordered accordingly.”

10. *In light of the above orders of the Tribunal, we direct the AO to examine whether the interest income received on investment with Central Co-operative Bank is out of compulsions under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules. If it is so, the same may be considered as ‘business income’ and entitled to deduction under section 80P(2)(a)(i) of the Act. In other words, if assessee society does not comply with the relevant provisions of the Act, and the Rules of Karnataka Co-operative Societies Act, 1959, it cannot carry on its co-operative activities, namely carry on the business of banking or providing credit facilities to its members. Therefore, if the investments are out of compulsion under the Act*

and relevant Rules, necessarily it is part of assessee's business activity entailing the benefit of section 80P(2)(a)(i) of the Act.”

19. In light of the aforesaid reasonings and judicial pronouncements cited supra, since there was factual finding in the instant case that investments in FDs with SCDCC Bank Ltd., is out of statutory compulsions and interest income received on the same is part of operating income, we are of the view that the order of the PCIT invoking his revisionary powers under section 263 of the Act, is not valid. In other words, there is no error much less an error prejudicial to the interest of the Revenue in the Assessment Order dated 02.12.2022 warranting revision under section 263 of the Act. Therefore, we hold that the Assessment Order granting the benefit of deduction under section 80P(2)(a)(i) of the Act with respect to the interest income of Rs.3,53,68,999/- is justified on facts of the instant case. Hence, we quash the order of PCIT passed under section 263 of the Act. It is ordered accordingly.

20. In the result, appeal filed by the assessee is allowed.

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

Sd/-

(CHANDRA POOJRAI)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 11.01.2024.

/NS/*

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.