

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

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

ITA Nos.503 to 505/Bang/2023
Assessment years : 2010-11, 2012-13 & 2013-14

Lalithamba Pattina Souharda Sahakari Niyamita, 1 <sup>st</sup> Floor, Vivekananda Road, Behind Prasad Nursing Home, Gadag – 582 101. <b>PAN : AAATL 5716G</b>	Vs.	The Income Tax Officer, Ward 1, Gadag.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	23.01.2024
Date of Pronouncement	:	31.01.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

These appeals are filed by the assessee against the separate orders of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] dated 2.6.2023 for the AYs 2010-11, 2012-13 & 2013-14.

2. The assessee has raised the common grounds in all the appeals, except change in figures. The grounds for AY 2010-11 are reproduced below:-

“1. The order passed by the learned Commissioner of Income Tax (Appeals) — NFAC ("CIT(A)") under section 250 of the Act insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice and probabilities on the facts and circumstances of the Appellant's case.

2. The Appellant denies itself liable to be assessed at Rs. 6,86,093/- as against the returned NIL income, on the facts and circumstances of the case.

COST OF FUNDS:

3. The learned CIT(A) was not justified in upholding the order of the AO, in respect of treating the interest income of Rs. 6,86,093/-, without allowing the cost of interest incurred, on the facts and circumstances of the case.

4. The learned CIT(A) was not justified in appreciating that the direction of the supreme court has not been followed, in so far as allowing cost of funds, while upholding the order of the assessing officer, on the facts and circumstances of the case.

5. The authorities below failed to appreciate that the appellant has incurred expenditure on the deposits received and maintained in banks as deposits, and the same was required to be allowed as per the workings filed, on the facts and circumstances of the case.

6. The learned CIT(A) was not justified in appreciating that the interest income on fixed deposits, when considered under the head other sources, the interest expenditure incurred was also required to be set off against the income, on the facts and circumstances of the case.

7. The authorities below failed to appreciate that the cost of funds has been arrived at by the appellant in a scientific manner and the inference that the reserves alone were kept as deposits was an incorrect finding and contrary to fact, on the facts and circumstances of the case.

8. The Appellant denies the liability to pay interest under section 234B of the Act in view of the fact that there is no

liability to additional tax as determined by the learned Assessing Officer on the facts and circumstances of the case.

9. The Appellant craves to add, alter, modify, substitute, change and delete any or all of the grounds and to file a paper book at the time of hearing the appeal.

10. In the view of the above and other grounds that may be urged at the time of the hearing of appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”

3. The brief facts of the case are that the assessee is a co-operative credit society registered under the Karnataka Souharda Sahakari Act, 1997 and it is engaged in the activity of accepting deposits and providing credit facilities to its members and making investments etc. The assessee filed Nil return of income after claiming deduction of Rs.7,07,765 u/s. 80P(2)(a)(i) of the Act. The case was reopened u/s 147/148 of the Act and other statutory notices were issued to the assessee. The AO in view of clause (viia) of section 2(24) inserted w.e.f. 1.4.2007 held that the assessee co-operative society as a primary co-operative bank and hence disallowed the claim of deduction u/s 80P and made addition of Rs.7,07,765.

4. On appeal, the CIT(Appeals) observed that the assessee's activities are mainly to providing credit facility to members and deduction u/s. 80P(2)(a)(i) cannot be denied. Income earned by assessee in course of providing credit facilities to members only is eligible for deduction. However, the CIT(Appeals) noted that the assessee earned a total interest income of Rs.8,71,116 on Fixed Deposits from Banks which are neither members of assessee society

nor co-operative banks/ societies. According to the provisions of section 80P(2)(d), only interest income earned from other co-operative societies would be eligible for deduction. The CIT(Appeals) therefore held that income derived by making investments in FDs out of fund which is liability in books is liable to be assessed u/s. 56 of the Act and the interest received on such investments cannot be said to be attributable to the activity of the assessee society. He relied on the judgment of Supreme Court in the case of Totgars Co-operative Sale Society Ltd., 322 ITR 283 dated 8.2.2010. He however relying on the Hon'ble High Court of Karnataka judgment in the case of Totgars Sale Society held that cost of fund and administrative expense against such interest income from banks is allowable. The assessee submitted the working of cost of funds u/s. 57 at Rs.13,22,384 and arrived at an income under the head other sources of Rs.(-) 4,51,268. The CIT(Appeals) directed the AO to verify the working furnished by the assessee and allow the cost of funds and delete the addition of Rs.7,07,765.

5. The AO in the order giving effect to the appellate order of the CIT(Appeals), observed that the assessee has claimed cost of funds of Rs.13,22,384 at an average of 8.17% paid by the society i.e., business expenses. He held that the amount deposits in FDs in various banks is only the surplus funds and allowing cost of funds at an average of 8.17% of total expenses is illogical and allowed proportionate expenses @ 15.5% of income determined at Rs.8,71,116 which comes to Rs. 1,35,022/-. The CIT(Appeals) on the limited issue of allowability of

administrative and other expenses in relation to earning of interest on FDRs, confirmed the OGE passed by the AO. Aggrieved, the assessee is in appeal.

6. The Id. AR reiterated the submissions made before the lower authorities and stated that he assessee is engaged in the activity of accepting deposits from members and providing credit facilities to the members. The assessee also carries on business of providing e-stamping services for which separate books of accounts are maintained and there is no dispute. The Id. AR submitted that the revenue authorities have not allowed the full cost of funds to the assessee and allowed it only to the extent of 15%. He submitted that the assessee is eligible for deduction u/s. 80P of the Act and without prejudice, submitted that that the cost of funds has to be allowed against the income not eligible for deduction u/s. 80P as per the calculation submitted which is placed at PB page No. 03. The funds received from members as deposits are invested with banks for short term with banks as a routine treasury management and earned interest income on the same. Section 80P is a benevolent section and assessee is eligible for deduction u/s. 80P on such interest income. The AO has wrongly classified interest income as income from other sources without allowing full deduction on the cost of funds and administrative expenses. He further submitted that the AO is not justified in stating that the appellant has already claimed benefit of expenditure in computing the claim u/s. 80P(2)(a)(i) which is contrary to the fact and against the direction of the Hon'ble High Court of Karnataka which

has directed that the computation be done before passing the order of assessment. He further submitted that the income when considered for deduction u/s. 56/57 of the Act, the corresponding interest paid to the members was also required to be reduced in the computation of taxable income which has not been done in the instant case to arrive at the correct amount taxable u/s. 56/57 of the Act under the head income from other sources. The Id. AR has filed paperbooks of pages 1-28, 1-15 & 1-23 for all the three years respectively which is placed on record.

7. On the other hand, the Id. DR relied on the orders of lower authorities and submitted that the lower authorities are justified in allowing proportionate expenses to the extent of 15% on the interest income received. Since the assessee has claimed deduction u/s. 80P(2)(a)(i) and the entire cost has been exhausted/absorbed while computing income for deduction u/s. 80P(2)(a)(i) of the Act. The interest income received by the assessee on its investments are always in the nature of interest which are required to be taxed as income from other sources. He further submitted that the deduction provisions should be read strictly as suggested by the Hon'ble Supreme Court in the case of Commissioner of Customs ( Import) vs Dilip Kumar & Co. reported in [2018] 95 taxmann.com 327. He further submitted that there is no straight jacket formula provided in the Act for calculating cost of funds on the interest income earned by the assessee on its deposits if there is no clear identification of the expenditures incurred . The assessee is providing different types of facilities at different rate of

interest on its deposits and credit facilities provided to its members. Accordingly, the revenue authorities have rightly allowed cost of funds to the extent of 15% of interest income.

8. Considering the rival submissions, we note that there is no dispute that the assessee is eligible for deduction u/s. 80P(2)(a)(i) of the Act which has been allowed by the AO. The dispute is only with regard to cost of funds to be allowed on the interest income received by the assessee from its deposits with banks, to which the AO has allowed it proportionately @ 15% .

9. We note from the financial statements that the assessee has accepted deposits from members in various forms i.e., Fixed deposit, Recurring Deposit, Loan Linked R.D., Pigmy deposit, Lalitamba C.A. and Savings A/c. on different rates of interest. The assessee has also provided loan facilities to its members under various heads at different rates of interest viz., Surety loans, Vehicle loans, Loans Ag Deposits, KVP & NSC Pledge loan, LRD loans, Overdraft loans, Overdraft Against Deposits, 1 Rd loans, Mortgage loans, 6 months loans, and Gold purchase loan. Similarly the assessee has made fixed deposits in different banks with Karnataka Bank, MLC Bank, Sir MVCB Bank, Sir MVCB Bank RD, Karnataka RFD, SPSSN Sindanur, etc., and assessee has maintained bank accounts at different rates of interest. The assessee has also taken OD loan. The assessee submitted that the funds which are not immediately required by the members are kept in bank account for compensating interest cost on such deposits. Considering the entire receipts and payments and movement of

deposits received from the members and loans given to members and amount of fixed deposits made by the assessee in the banks, we note that there is no clear identification of particular surplus/idle funds deposited in fixed deposits with banks. There is also no straight jacket formula for calculating cost of funds as per the working produced by the Id. AR which is placed at pages 3, 4 & 5 of PB for the three years respectively.

10. We are reproducing the balance sheet/financial statement and scheduled of consolidated Income & Expenditure account of the assessee below:-

ASSESSNET YEAR 2010-2011			
SCHEDULE TO CONSOLIDATED INCOME & EXPENDITURE ACCOUNT			
<b>1 DETAILS FOR INTEREST RECEIVED :</b>			
			₹
Surly Loans			3,434,518.00
Veh. Loans			63,633.00
Loans Against Deposits			205,018.00
Loan Linked R.D.			80,500.00
K.V.P & N.S.E Loan			12,293.00
1 Year Rd Loan			407,850.00
Overdraft Loans			464,715.00
Overdraft against Deposits			107.00
Stock in Trade Loan			56,534.00
From Bank on F.D.			871,002.07
From Bank on S.B.			5,045.00
TOTAL			<u>6,274,505.07</u>
<b>2 DETAILS FOR INTEREST PAID :</b>			
Fixed Deposit			1,350,541.00
Recurring Deposit			84,152.00
Pigmy Deposit			94,352.00
Savings Account			32,155.00
To Bank on O.D.			188,651.50
Int Paid to 1 Year R.D.			33,632.00
Int Paid Loan Linked R.D.			820,987.34
TOTAL			<u>2,594,551.84</u>
<b>3 DETAILS FOR INTEREST PROVISION ON DEPOSITS :</b>			
Interest on F.D.			1,582,874.00
Interest on Pigmy			130,991.00
Interest on R.D.			35,983.50
TOTAL			<u>1,749,848.50</u>
<b>4 DETAILS FOR SALARY AND ESTABLISHMENT</b>			
Salary	V.R. Hejib	Chief Execut	42,000.00
	S.M. Alur	Clerk	32,119.00
	V.R. Kudarkar	Clerk	14,700.00
	M.V. Huded	Attender	24,000.00
	B.V. Deshpande	Clerk	42,000.00
	J.F. Budihal	Attender	16,500.00
Bonus			171,319.00
Cash Allowances			3,000.00
			120.00
TOTAL			<u>174,439.00</u>
<b>5 DETAILS FOR RENT PAID :</b>			
C.H. Kulkarni, Hanumanth Rao Kulkarni and L.H. Kulkarni, Vivekananda Road, Behind Prasad Nursing Home, Gadag			<u>138,000.00</u>

<b>LIABILITIES</b>		₹	<b>ASSETS</b>		₹
<b>SHARE CAPITAL :</b>					
Permanent Membership	1,138,000.00		Cash on Hand	107,087.00	
Ordinary Membership	<u>28,200.00</u>	1,164,200.00	Bank Balances	<u>963,415.31</u>	1,070,502.31
<b>RESERVES &amp; SURPLUS :</b>					
General Reserve	176,941.00		<b>FIXED DEPOSIT :</b>		
Co-op. Edu. Fund	21,233.00		Karnataka Bank	7,500,000.00	
Contingencies Fund	141,553.00		Corporation Bank	7,500,000.00	
Gen. Welfare Fund	<u>35,388.00</u>	375,115.00	Ratnakar Bank	1,000,000.00	
			Accrued Interest on F.D.	<u>185,850.26</u>	16,185,850.26
<b>SECURED LOANS :</b>					
Karnataka Bank O.D.		960,176.41	<b>INVESTMENTS :</b>		
			<b>LOANS :</b>		38,463,236.00
<b>DEPOSITS :</b>					
		52,089,624.00	<b>FIXED ASSETS :</b>		283,784.00
<b>CURRENT LIABILITIES :</b>					
<b>Provisions :</b>					
Interest Payable	2,268,670.72		<b>OTHER CURRENT ASSETS :</b>		
T.D.S. Payable	7,324.00		E Stamping Deposit	100,000.00	
Audit fees Payable	<u>14,607.00</u>	2,290,601.72	Advance For Stamp Paper	200,000.00	
Security Deposit from Pigmy Agents		162,251.00	Income Tax Refund Due	112,270.00	
			Tax Deducted at Source	546.00	
			Building Deposit	<u>250,000.00</u>	682,816.00
<b>PRELIMINARY EXPENSES :</b>					
( To the extent not written off or adj. )					
			a) Pre-operative Exp.	24,883.20	
			b) Deferred Exp. ( Software	<u>68,080.00</u>	92,963.20
<b>DEFICIT :</b>					
			Opening Balance	615,464.46	
			Less : Surplus of Cur.Yr.	<u>332,648.10</u>	282,816.36
		<u>57,041,968.13</u>			<u>57,041,968.13</u>

**LALITAMBA PATTINA SOUHARDA SAHAKARI NIYAMIT**  
Vivekanand Road, Behind Prasad Nursing Home, Gadag - 582 101

**ASSESSNET YEAR 2012- 2013**

**SCHEDULE TO CONSOLIDATED INCOME & EXPENDITURE ACCOUNT**

<b>1 DETAILS FOR INTEREST RECEIVED :</b>		₹
Surity Loans		70,89,826.21
Veh. Loans		25,394.00
Loans Against Deposits		2,19,618.00
Sagar Loan Interest		14,300.00
1 Year Rd Loan		5,75,300.00
Overdraft Loans		17,22,470.63
Overdraft against Deposits		17,753.00
From Bank on F.D.		24,59,020.74
From Bank on S.B.		29,223.00
TOTAL		<u>1,21,82,715.58</u>

**2 DETAILS FOR INTEREST PAID :**

Fixed Deposit		37,82,233.00
Recurring Deposit		56,087.00
Pigmy Deposit		2,14,903.00
Savings Account		1,40,097.49
To Bank on O.D.		59,661.00
TOTAL		<u>42,52,981.49</u>

**3 DETAILS FOR INTEREST PROVISION ON DEPOSITS :**

Interest on F.D.		49,03,544.00
Interest on Pigmy		64,436.00
Interest on R.D.		39,820.00
TOTAL		<u>50,07,800.00</u>

**4 DETAILS FOR SALARY AND ESTABLISHMENT**

Salan	Gadag	Vivek H Kulkarni	Chief Executive	1,80,000.00
		Santosh A	Clerk	48,000.00
		Vijay S Sangoli	Clerk	20,000.00
		Ramesh Kumar		5,250.00
TOTAL				<u>2,53,250.00</u>

**5 DETAILS FOR RENT PAID :**

C.H. Kulkarni, Hanumanth Rao Kulkarni and L.H. Kulkarni, Vivekananda Road, Behind Prasad Nursing Home, Gadag	5,000.00	60,000.00
Hanumanth Rao Kulkarni and L.H. Kulkarni, Jannu Building , Koppikar Road Hubli	5,000.00	60,000.00
Rent for Srinivas Huilgol Building	2,000.00	24,000.00
TOTAL		<u>1,20,000.00</u>

**6 DETAILS FOR E-STAMPING OVERHEADS :**

	Gadag	Hubli	TOTAL
Salary	4,10,940.00	1,54,575.00	5,65,515.00
Rent	24,000.00	60,000.00	84,000.00
Printing & Stationery	60,670.00		60,670.00
Electricity Charges	7,454.00	14,354.00	21,808.00
Telephone Charges	43,079.00	10,331.00	53,410.00
Telephne Charges	9,401.00	5,680.00	15,081.00
Coffie to Staff	31,991.00		31,991.00
Compute Repairs	52,275.00		52,275.00
Package Insurance	1,90,683.00		1,90,683.00
Cartridge	11,826.00	2,665.00	14,521.00
Bond Extra Printed Expenses	78,857.00		78,857.00
Depreciation - On Computers & Printers	78,857.00		78,857.00
TOTAL	<u>9,21,176.00</u>	<u>2,47,635.00</u>	<u>11,68,811.00</u>

[Handwritten signature and stamp]

For BENNUR NAGARAJA & CO.,  
Chartered Accountants  
BENNUR NAGARAJA  
Proprietor M.No. 024103  
20.08.11

<b>LALITAMBA PATTINA SOUHARDA SAHAKARI NIYAMIT</b>		10	
Vivekanand Road, Behind Prasad Nursing Home, Gadag - 582 101			
<b>ASSESSMENT YEAR 2012 - 2013</b>			
<b>CONSOLIDATED BALANCE SHEET AS AT 31.03.2012</b>			
<b>LIABILITIES</b>	<b>₹</b>	<b>ASSETS</b>	<b>₹</b>
<b>SHARE CAPITAL :</b>		<b>CASH &amp; BANK BALANCES :</b>	
Permanent Membership	14,96,000.00 ✓	Cash on Hand	4,96,959.00 ✓
Ordinary Membership	35,300.00 ✓	Bank Balances	1,04,02,442.56 ✓
	<b>15,31,300.00</b>		<b>1,08,99,401.56</b>
<b>RESERVES &amp; SURPLUS :</b>		<b>FIXED DEPOSIT :</b>	
General Reserve	6,78,434.00 ✓	Karnataka Bank	1,40,00,000.00 ✓
Co-op. Edu. Fund	35,007.00 ✓	Corporation Bank	1,15,60,795.00 ✓
Contingencies Fund	5,42,748.00 ✓	Ratnakar Bank	50,00,000.00 ✓
Gen. Welfare Fund	1,35,687.00 ✓	Accrued Interest on F.	3,59,903.00 ✓
Surplus	5,28,617.35 ✓		<b>3,09,20,698.00 ✓</b>
	<b>19,20,493.35 ✓</b>		
<b>SECURED LOANS :</b>	<b>70,95,266.41</b>	<b>INVESTMENTS :</b>	
		<b>LOANS :</b>	<b>6,90,43,974.00 ✓</b>
<b>DEPOSITS :</b>	<b>9,77,29,238.00 ✓</b>	<b>FIXED ASSETS :</b>	<b>4,16,164.00 ✓</b>
<b>CURRENT LIABILITIES :</b>		<b>OTHER CURRENT ASSETS :</b>	
<b>Provisions :</b>		E Stamping Deposit	1,00,000.00 ✓
Interest Payable	51,98,215.00 ✓	E Stamping Trading B	18,13,362.00 ✓
Audit fees Payable	14,607.00 ✓	Building Deposit	3,50,000.00 ✓
TDS Payable	10,446.00 ✓	Sohardha - TDS Rece	23,508.00 ✓
Dividend Payable	1,20,163.00 ✓	Smart Shope Trading	16,911.00 ✓
Security Deposit from Pigmy Agents	53,43,431.00 ✓	Income Tax Refund D	53,899.00 ✓
	<b>78,069.00 ✓</b>	Tax Deducted at Sour	32,207.00 ✓
			<b>23,89,687.00</b>
		<b>PRELIMINARY EXPENSES :</b>	
		( To the extent not written off or adj. )	
		a) Pre-operative Exp.	18,313.20
		b) Deferred Exp. ( So	9,360.00
			<b>27,673.20</b>
	<b>11,36,97,797.76</b>		<b>11,36,97,797.76</b>

LALITAMBA PATTINA SOUHWARDA SAHAKARI NIYAMIT				
Vivekanand Road, Behind Prasad Nursing Home, Gadag - 582 101				
<u>ASSESSMENT YEAR 2013 - 2014</u>				
<u>CONSOLIDATED INCOME AND EXPENDITURE ACCOUNT THE YEAR ENDED 31.03.2013</u>				
		₹	₹	
To Interest Paid	12,737,262.81		By Interest Received	17,188,888.27
Add: Provision:	363,501.00	13,100,763.81	" Gross Receipts from E-Stamping	1,321,616.55
" Salary and Establishment		399,857.00	" Other Incomes	58,057.91
" Commission to Pigny Agents		1,417,568.00		
" Staff Welfare		6,470.00		
" Rent		332,000.00		
" Printing & Stationery		97,738.00		
" Travelling Expenses		8,074.00		
" Postage		125.00		
" Telephone Charges		4,489.00		
" Electricity Charges		4,841.00		
" Water Bill		8,324.00		
" Office Expenses		41,415.00		
" Sitting Fees		54,000.00		
" A G M Expenses		62,694.00		
" <u>Federation Fees</u>				
2011-12	10,000.00			
2012-13	30,000.00	40,000.00		
" Professional Tax		3,000.00		
" E-Stamping Overheads		1,155,736.19		
" Miscellaneous Expenses		49,742.00		
" Audit fees		33,700.00		
" Internal Audit Fees		7,000.00		
" Ghs and Calenders		24,000.00		
" Pooja Expenses		4,000.00		
" Depreciation		248,540.00		
" Preliminary Exp. w/o @ 10%		39,229.00		
" Deferred Rev. Exp. w/o @ 20%		9,360.00		
" Bank Charges		11,745.03		
" Interest - MLC Bank Car Loan		29,271.00		
" Surplus c/d		1,374,823.70		
		18,568,562.73		18,568,562.73
To General Reserve	25%	343,706.00	By Opening Balance b/d	528,617.35
" Co-op. Edu. Fund	3%	41,245.00	" Surplus for the Current Year	1,374,823.70
" Contingencies Fund	20%	274,965.00		
" General Welfare Fund	5%	68,741.00		
" Dividend Paid	2011 - 12	225,092.00		
" Income Tax	2011 - 12	17,177.00		
" Surplus c/o to balance Sheet		932,515.05		
		1,903,441.05		1,903,441.05

LALITAMBA PATTINA SOUHARDA SAHAKARI NIYAMIT GADAG

Vivekanand Road, Behind Prasad Nursing Home, Gadag - 582 101

ASSESSMET YEAR 2013 - 2014

CONSOLIDATED BALANCE SHEETAS AT 31.03.2013

LIABILITIES	₹	ASSETS	₹
<b>SHARE CAPITAL :</b>		<b>CASH &amp; BANK BALANCES :</b>	
Permanent Membership Fees	1,913,000.00	Cash on Hand	1,651,880.00
Ordinary Membership Fees	41,125.00	Bank Balances	20,329,107.30
			21,980,987.30
<b>RESERVES &amp; SURPLUS :</b>		<b>FIXED DEPOSIT :</b>	
General Reserve	1,022,140.00	Karnataka Bank	9,900,000.00
Co-op. Edu. Fund	41,245.00	MLC BANK	5,000,000.00
Contingencies Fund	617,713.00	Sr M VCB BANK	19,000,000.00
Gen. Welfare Fund	204,428.00	Sr M VCB BANK RD	589,961.00
Surplus	932,515.05	Karnataka RFD	1,356,869.00
		SPSSN Sindanur	2,500,000.00
		Accured Int	34,726.00
			37,881,566.00
<b>SECURED LOANS :</b>		<b>INVESTMENTS :</b>	
Karnataka Bank O.D	1,279,385.91	Share in M L C Bank	11,000.00
MLC Bank, Car Loan	326,271.00		
	1,605,656.91		
<b>DEPOSITS :</b>		<b>LOANS :</b>	
	143,476,455.56		87,047,463.00
<b>CURRENT LIABILITIES :</b>		<b>FIXED ASSETS :</b>	
			1,427,574.00
Provisions		<b>OTHER CURRENT ASSETS :</b>	
Interest Payable	392,634.00	E Stamping Deposit	100,000.00
Audit Fees Payable	33,708.00	E Stamping Trading Bal	703,601.55
T.D.S Payable	11,387.00	Building Deposit	540,000.00
Security Deposit from Pigmy Agents	73,572.00	Smart Shope Trading Bal	18,489.47
P-Stamp Trading - Suspensa	200,000.00	Souhardha - TDS Receive	42,591.00
		Telephone Deposit	3,300.00
		Income Tax Refund Due	15,030.00
		T.D.S.	129,663.00
		T.D.S. Suspense	5,319.00
			1,558,194.02
<b>PRELIMINARY EXPENSES :</b>			
( To the extent not written off or adj )			
a) Pre-operative Exp.			156,805.20
	<u>150,765,579.52</u>		<u>150,765,579.52</u>

11. We summarize the financial statements, Net worth and investments as under:-

	31.03.2010	31.03.2012	31.03.2013
Share Capital	11,64,200	15,31,300	19,54,125
Reserves & Surplus	3,75,115	19,20,493	30,18,041
<b>Total (A)</b>	<b>15,39,315</b>	<b>34,51,793</b>	<b>49,72,166</b>
LESS:			
Preliminary expenses	92,963	27,673	1,58,805
Deficit	2,82,817	-	-
<b>(B)</b>	<b>3,75,780</b>	<b>27,673</b>	<b>1,58,805</b>
<b>NET WORTH (C)= (A- B)</b>	<b>11,63,535</b>	<b>34,24,120</b>	<b>48,13,361</b>
Fixed Deposits (D)	<b>1,61,85,850</b>	<b>3,09,20,698</b>	<b>3,79,81,556</b>
Fixed deposits made out of Deposits from members (E) = (C-D)	<b>1,50,22,315</b>	<b>2,74,96,578</b>	<b>3,31,68,195</b>

12. The application of deposits received from the members by the society depends upon the takers (loanee). If in case there are no takers, then the funds are lying with society which is carrying cost. From the above table, it is clear that the society has fixed deposits at the year end as per the table. We further note that the assessee has net worth also, ignoring the working capital investment out of own funds, i.e., the society has invested its net worth for making fixed deposits and the rest amount of fixed deposits are from deposits received from the members which carries cost. Therefore, the assessee is eligible for the cost of funds on such investments out of interest income received thereon. The society has prepared financial statements at the end of the year and has calculated the cost of funds @ 8.17% on the year end figure. We note that assessee is paying interest @ 4% to 13% on the deposits from the members and receives interest of @ 6% to 8% on fixed deposit

investment. However, the activity of the society of receiving deposits from members and providing credit facilities to them and investments in fixed deposits is throughout the year and therefore considering the data for the year end is not correct. We also note that there is variation in the investment of fixed deposits at the year end. As per our considered opinion, for calculation of cost of funds, the proper course is that the amount of deposits from members, interest paid thereon and investments in fixed deposits in banks (excluding the internal funds as calculated in the above table) have to be arrived at on average monthly basis and thereafter year end average is to be arrived for cost of funds. The assessee has also asked for proportionate cost of administrative expenditure for earning interest income. Therefore the issue is remitted back to the AO and assessee is directed to provide the details of monthly figures as indicated above to arrive at the year-end average of deposits received from members, interest paid thereon and investments made in fixed deposits from external funds. The AO will decide the issue as per law after giving reasonable opportunity of being heard to the assessee. The assessee is directed not to seek unnecessary adjournment for early disposal of the case.

13. Ground No.8 is consequential in nature.

14. In the result, all the appeals of the assessee are partly allowed.

Pronounced in the open court on this 31<sup>st</sup> day of January, 2024.

Sd/-

( GEORGE GEORGE K. )  
VICE PRESIDENT

Sd/-

(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 31<sup>st</sup> January, 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.