

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

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

ITA No.158/Bang/2024
Assessment Year : 2020-21

M/s. Sumantha Pathina Souharda Sahakari Niyamita, Sahakari Niyamitha R, Kondlahalli, Molakalmuru, Chitradurga – 577 529, Karnataka. PAN : AAJAS 7472 G	Vs.	ITO, Medehalli.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Suhas K, CA
Revenue by	:	Shri. Ganesh R. Gale, Standing Counsel for Department

Date of hearing	:	27.02.2024
Date of Pronouncement	:	27.02.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of assessee is directed against order of the CIT(A) dated 06.12.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2020-21.

2. The grounds raised read as follows:

1. That the order of the learned officer which upheld the order of assessing officer, in so far it is prejudicial to the interests of the appellant, is bad and erroneous in law and against the facts and circumstances of the case.

2. That the learned officer erred in law and on facts in not allowing the deduction of Rs.1,15,752/- claimed u/s. 80P(2)(a)(i) & Rs. 3,14,554/- claimed u/s 80P(2)(d) on the ground that interest earned has to be taxed u/s 56 (Income from other sources) the said deduction is not available to the said cooperative society.

3. That the learned officer erred in law and on facts in holding that the appellant is not eligible for deduction u/s 80P on interest income earned on its investments and deposits made with Co-Operative Society and have upheld the order of assessing officer.

Each of the above grounds is without prejudice to one another and the appellant craves leave tith Income tax appellate tribunal, to add, delete, amend or otherwise modify one or more the above grounds either before or at the time of hearing of this appeal.

3. Brief facts of the case are as follows:

Assessee is a credit co-operative society registered under the Karnataka Souhardha Sahakari Act, 1997. For the Assessment Year 2020-21, the return of income was filed on 07.11.2020 declaring 'Nil' income after calming deductions of Rs.17,49,186/- under section 80P(2)(a)(i) of the Act and Rs.10,99,609/- under section 80P(2)(d) of the Act. The return of income was selected for scrutiny and notice under section 143(2) of the Act was issued on 29.06.2021. The assessment was completed under section 143(3) of the Act vide order dated 28.09.2022 by assessing total income at Rs.4,30,306/-. The disallowance / addition made by the AO are as follows:

- i. Disallowance of deduction claimed u/s 80P(2)(a)(i) of the Act - Rs. 1,15,752/-
- ii. Disallowance of deduction claimed u/s 80P(2)(d) of the Act - Rs. 3,14,554/-

4. Aggrieved by the Order of Assessment, assessee filed appeal before the First Appellate Authority (FAA). The CIT(A) dismissed the appeal of the assessee vide impugned order dated 16.12.2023.

5. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. The learned AR reiterated the submissions made before the Income Tax authorities.

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

7. We have heard the rival submissions and perused the material on record. Assessee had made a claim of deduction under section 80P(2)(a)(i) of the Act of Rs.1,15,752/- being a SB interest received by the assessee from Karnataka Bank and Indian Overseas Bank. The AO held that the said interest income earned from Co-operative Bank / Scheduled Bank is not entitled to deduction under section 80P(2)(a)(i) of the Act since the same is to be assessed as "Income from Other Sources". In this context, the learned AR relied on the judgment of the Hon'ble High Court in the case of PCIT Vs. Totgars Sales Society reported in 395 ITR 611 (Karnataka). The view taken by the AO was confirmed by the CIT(A).

8. Further, the assessee had claimed interest received from co-operative bank as deduction under section 80P(2)(d) of the Act (FD interest from SUCO Co-operative Bank of Rs.3,14,544/-). The AO held that the interest income received from Co-operative Bank is not entitled to deduction under section 80P(2)(d) of the Act. In this context, the learned AO relied on the judgment of the jurisdictional

High Court in the case of PCIT Vs. Totgars Sales Society (supra). The view taken by the AO was confirmed by the CIT(A).

9. The jurisdictional High Court in the case of PCIT Vs. Totgars Sales Society (supra) had categorically held that the interest income received from Scheduled Banks / Co-operative Banks are not entitled to deduction under section 80P(2)(a)(i) or under section 80P(2)(d) of the Act. However, the latest judgment of the Hon'ble Apex Court in the case of Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Vs. AO reported in 458 ITR 384 (SC) had categorized various co-operative banks as co-operative societies thereby granting the benefit of deduction under section 80P of the Act to the said co-operative banks. Though the Hon'ble Apex Court was considering the interpretation of section 80P(4) of the Act, when a co-operative bank is deemed to be considered as a co-operative society, the necessary corollary has to follow. Thereby meaning when interest income is received from such co-operative bank which are deemed to be considered as co-operative society, then the assessee would be entitled to deduction under section 80P(2)(d) of the Act. Since AO did not have the benefit of examining the dictum laid down by the Hon'ble Apex Court in the case of Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Vs. AO (supra), we deem it appropriate to restore the matter to the AO. The AO is directed to reexamine the issue whether the assessee is entitled to deduction under section 80P(2)(d) of the Act (i.e., the FD interest received from SUCO Co-operative Bank of Rs.3,14,544/-) in light of the judgment of the Hon'ble Apex Court. It is ordered accordingly.

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

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: 27.02.2024.

/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.