

**आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम**

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

**श्रीदुव्वूरुआरएलरेड्डी, न्यायिकसदस्यएवंश्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष**

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER  
**(Through Hybrid Hearing)**

आयकरअपीलसं./ I.T.A. No.45/Viz/2024

(निर्धारणवर्ष/ Assessment Year : 2017-18)

The Krishna District Cooperative  
Central Bank Ltd.,  
Machilipatnam-521001.  
PAN: AABTT 0343 T

(अपीलार्थी/ Appellant)

अपीलार्थीकीओरसे/ Assessee by

प्रत्यार्थीकीओरसे/ Revenue by

सुनवाईकीतारीख/ Date of Hearing

घोषणाकीतारीख/Date of  
Pronouncement

Vs.

Asst. Commissioner of  
Income Tax, Circle-1(1),  
Vijayawada.

(प्रत्यर्थी/ Respondent)

Sri K. Siva Ram Kumar, AR

Dr. Aparna Villuri, Sr. AR

19/03/2024

21/03/2024

**ORDER**

**PER S. BALAKRISHNAN, Accountant Member :**

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [Ld. CIT(A)-NFAC] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1058800432(1), dated

16/1/2023 arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [the Act] for the AY 2017-18.

2. Briefly stated the facts of the case are that the assessee is a District Cooperative Central Bank registered under Cooperative Societies Act is carrying on the banking business as per Banking Regulation Act, 1949 filed its return of income admitting a total income of Rs. 21,52,57,740/- and also has filed a revised return of income admitting the same income on 8/6/2018. The case was selected for scrutiny and statutory notices U/s. 143(2) and 142(1) of the Act were issued from time to time calling for certain information. The Ld. AO observed from Form 26AS that the assessee while paying the interest on bank Fixed Deposits amounting to Rs. 1,44,02,647/- the assessee has failed to deduct Tax at source (TDS) as per the provisions of section 194A of the Act. The Ld. AO therefore made a disallowance U/s. 40(a)(ia) of the Act amounting to Rs. 43,20,794/- equivalent to 30% on the interest on Fixed Deposits paid to the Krishna District Milk Producers Mutually Aided Cooperative Union Limited. The Ld.AO also made an addition of Rs. 92,31,47,000/- as unexplained cash credit U/s. 68 of the Act. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

The Ld. CIT(A)-NFAC considering the submissions made by the assessee's Representative, partly allowed the appeal thereby confirming the disallowance U/s. 40(a)(ia) of the Act for Rs. 43,20,794/-. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by rising the following grounds of appeal:

- “1. *In the facts and circumstances of the case, the Ld. CIT(A) ought to have considered the facts of the case and the Grounds of Appeal before dismissal ex-parte.*
2. *In the facts and circumstances of the case, the Ld. CIT(A) ought to have allowed the appellant's claim for exemption from TDS U/s. 194A made before him that the interest paid / credited by it to the Krishna District Mutually Aided Cooperative Union Ltd., even after the amendment to section 194A(3)(v) w.e.f 1/6/2015 as held out by the Hon'ble CBDT vide Circular No. 19/2015, dated 27/11/2015.*
3. *The appellant craves leave to add or amend any grounds of appeal.”*

3. **Grounds No. 1 & 3 are general** in nature and therefore they need no adjudication.

4. **Ground No.2** is with respect to disallowance U/s. 40(a)(ia) of the Act for non-deduction of Tax at Source U/s. 194A of the Act. At the outset, the Ld. AR argued that as per the Circular No. 19/2015, dated 27/11/2015 issued by the Central Board of Direct Taxes [CBDT] providing the EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE ACT, 2015, wherein the exemption

was provided U/s. 194A(3)(v) of the Act from deduction of tax from interest paid by a Cooperative Society to another Cooperative Society shall continue to apply to Cooperative Banks also. Therefore, he pleaded that the addition may be deleted.

5. Per contra, the Ld. DR relied on the orders of the Ld. Revenue Authorities.

6. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. Section 194A(3)(v) of the Act reads as under:

*“194A(3)(v) to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society.”*

7. Further, reliance placed by the Ld. AR on the Board Circular No. 19/2015, dated 27/11/2015 (supra) clearly in para 42.7 states as follows:

*“42.7 Further, the existing exemption provided under section 194A(3)(v) of the Income-tax Act from deduction of tax from interest paid by a co-operative society to another co-operative society **shall continue to apply to the co-operative bank and, therefore, a co-operative bank shall not be required to deduct tax from the payment of interest on time deposit to a depositor, being a co-operative society**”*

8. The Board Circulars are binding on the Departmental Representatives and hence needs to be followed. Moreover, from the

above, we find that the exemption U/s. 194A(3)(v) has been extended to the Cooperative Banks and therefore it is not required by the assessee to deduct tax on the payment of interest on term deposits to another Cooperative Society. We therefore, **allow this ground** raised by the assessee.

9. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 21<sup>st</sup> March, 2024.

Sd/-

(दुव्वूरुआर.एलरेड्डी)  
(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Dated : 21.03.2024

OKK - SPS

Sd/-

(एसबालाकृष्णन)  
(S.BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–The Krishna District Cooperative Central Bank Limited, H.O. YSR Sahakara Bhavan, Jagannadhapuram, Machilipatnam-521001, Krishna District, Andhra Pradesh.
2. राजस्व/The Revenue –Asst. Commissioner of Income Tax, Circle-1(1), Central Revenue Buildings, Vijayawada, Andhra Pradesh – 520002.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam