

**आयकर अपीलीय अधिकरण, बी न्यायपीठ,चेन्नई**  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' (SMC) BENCH : CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./I.T.A. No.1562/CHNY/2023  
निर्धारण वर्ष/Assessment year : 2016-2017

No.9481, Karadivavi Primary  
Agricultural Cooperative Credit  
Society,  
Karadivavi, Palladam,  
Tirupur,  
TamilNadu 641 664.

**Vs.** The Income Tax Officer,  
Ward 2(2)  
Tirupur

[PAN AAALN 0961D]  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri. N.V. Narayanan, Advocate  
: Shri D. Hema Bhupal, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.02.2024

घोषणा की तारीख /Date of Pronouncement

: 22.02.2024

**आदेश/ O R D E R**

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1057593818 (1), dated 01.11.2023. The assessment was framed by the Income Tax Officer, Ward 2(2), Tirupur for the assessment year 2016-2017 passed u/s.143(3)

of the Income Tax Act, 1961 (in short 'the Act') vide order dated 19.12.2018.

**2.** The only issue in this appeal of assessee is with regard to order of the Id.CIT(A) confirming the action of the Id. Assessing Officer in disallowing the claim of deduction u/s.80P(2) (a) (i) of the Act in regard to interest income earned from saving bank with The Coimbatore District Central Co-operative Bank.

**3.** The brief facts of the case are that the Id. Assessing Officer noted that assessee is a Co-operative Society filed its return of income declaring Nil income after claiming deduction u/s.80P(2) (a) (i) of the Act. The Id. Assessing Officer noticed during the course of hearing that assessee is maintaining savings bank/current / FD accounts with Coimbatore District Central Co-operative Bank Ltd and TNSCB and assessee is regularly investing funds not immediately required in savings bank/current / FD accounts. According to the Id. Assessing Officer this interest income cannot fall within the meaning of the expression "'profits and gains of business' and this income falls under the category 'income from other sources' and it has to be taxed u/s.56 of the Act. According to the Id. Assessing Officer no deduction under Chapter VIA is eligible and therefore he added a sum of Rs.40,50,046/- to the

returned income of the assessee. Aggrieved, assessee preferred an appeal before the Id. Commissioner of Income Tax (Appeals)

4. The Id. CIT(A) confirmed the action of the Id. Assessing Officer by disallowing the claim of deduction u/s.80P(2) (a) (i) of the Act by observing as under:-

*‘With respect to disallowance of Miscellaneous Income, the interest income on funds not required for business purpose actually amounting to Rs. 37,26,054/- is to be sustained in view of the decision of the Hon'ble Karnataka High Court in the case of Pr.CIT vs Totagars Cooperative Sale Society (2017) 395 ITR 611 (Karnataka) that a Cooperative Society would not be entitled to claim of deduction u/s 80P(2)(d) in respect of interest income from deposits made in Cooperative banks. Accordingly addition on this ground to the tune of Rs. 37,26,054/- is hereby sustained (amount mentioned by AO in his order Rs. 48,370/- has been pointed out by appellant to be actually Rs. 37,26,054/-)‘.*

It means that the Id. CIT(A) sustained the addition to the extent of Rs.37,26,054/-. Aggrieved, assessee preferred an appeal before the Tribunal.

5. I have heard the rival contention and perused the material on record. I noted that the assessee earned interest from savings bank/current / FD accounts maintained with C.D.C.C. Bank to the tune of Rs.36,45,225/- and gratuity invested in LIC of Rs.80,829/- aggregating to Rs.37,26,054/-. The details are as under:-

<i>Sl.No</i>	<i>Particulars</i>	<i>Net</i>
1	<i>FD in CDCC Bank</i>	<i>17,92,832.00</i>
2	<i>SB in CDCC Bank</i>	<i>2,06,967.00</i>
3	<i>SSD in CDCC Bank</i>	<i>44.00</i>
4	<i>TD in CDCC Bank</i>	<i>686.00</i>
5	<i>Fluid resources fund in CDCC Bank</i>	<i>15,06,866.00</i>
6	<i>BDR in CDCC Bank</i>	<i>1,37,803.00</i>
7	<i>RF in CDCC Bank</i>	<i>27.00</i>
8	<i>Gratuity invest in LIC</i>	<i>80,829.00</i>
	<i>Total</i>	<i>37,26,054.00</i>

I have carefully gone through the details of interest earned by the assessee and noted that out of the total amount of Rs.37,26,054/- claimed (supra), except a sum of Rs.80,829/- claimed to have gratuity invested in LIC, is to be allowed. The reason for the same is that C.D.C.C. Bank is registered under Tamil Nadu State Co-operative Act and once it is registered under Tamil Nadu State Co-operative Act assessee is as such eligible for deduction. Since the assessee is a Co-operative Society and it has received interest from CDCC Bank, the same is eligible for claim of deduction in view of the decision of the Hon'ble Supreme Court in the case of *Mavilayi Service Co-operative Bank Ltd., & Ors. Vs. CIT, 123 Taxmann.com 161 (SC)*. Similar view has been taken by the Tribunal in the case of *Tamilnadu Co-operative State Agriculture and Rural Development Bank Limited in ITA Nos.31 to 33/CHNY/2021 vide order dated 29.04.2022* following the decision of Hon'ble Supreme Court in the case of *Mavilayi Service Co-operative Bank Ltd., (supra)* and the Hon'ble

Madras High Court in the case *S-1308, Ammapet Primary Agricultural Co-operative Bank Ltd.,in T.C.A Nos.882 and 891 of 2018*. Respectfully following the same, I allow the claim of deduction u/s.80P(2)(a)(i) of the Act amounting to Rs.36,45,225/-. Accordingly, the appeal of the assessee is partly allowed.

**6.** In the result, the appeal of the assessee in ITA No.1562/Chny/2023 for assessment year 2016-2017 is partly allowed.

Order pronounced in the open court at the time of hearing on 22<sup>nd</sup> day of February, 2024, at Chennai.

Sd/-  
(महावीरसिंह )  
**(MAHAVIR SINGH)**  
उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated: 22.02.2024.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF