

आयकर अपीलीय अधिकरण, 'बी' (एस एम सी) 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./ITA No.: 1468/CHNY/2023
निर्धारण वर्ष/Assessment Year: 2018-19

**The Indcoserve
No.35, Church Road,
Coonoor,
Nilgiris 643 101.**

**Vs. The Income Tax Officer,
Ward 1,
Ooty.**

[PAN:AABAT 0789M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Ms. N.V. Lakshmi, Advocate
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.02.2024

घोषणा की तारीख /Date of Pronouncement

: 21.02.2024

आदेश/ ORDER

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1057267760(1) dated 20.10.2023. The assessment was framed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income-tax Officer, National e-Assessment Centre, Delhi u/s.143(3) r.w.s. 143(3A) &

143(3B) of the Income Tax Act, 1961 (hereinafter the 'Act') for the assessment year 2018-19 vide order dated 18.02.2021.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the Id. Assessing Officer in disallowing the claim of deduction u/s.80P(2) (i) of the Act. For this, assessee has raised various grounds, which are argumentative and factual and need not be reproduced.

3. The brief facts of the case are that assessee is an Apex Co-operative society registered under the Tamil Nadu Co-operative Society Act, 1983 and engaged in the business of marketing of agricultural produce raised by its member societies. Assessee filed its return of income for the assessment year 2018-2019 and assessee has earned the following incomes:-

(i)	Interest income earned from Tamil Nadu Industrial Co-Operative Bank Rs.5,82,164/-.
(ii)	Interest income earned from Indian Bank Rs.1,33,463/-.
(iii)	Interest income earned from Tamil Nadu Generation and Disbursement Cooperation Rs.9,803/-

The Id. Assessing Officer admitted that assessee has earned interest income of Rs.5,82,164/- from Tamil Nadu Industrial Co-Operative Bank and claimed the income as deduction u/s.80P(2)(i) of the Act. Assessee also claimed deduction u/s.80P(2)(i) of the Act as interest income earned from Indian Bank Rs.1,33,463/- and also interest income earned from M/s. Tamil Nadu

Generation and Disbursement Corporation Rs.9,803/-. The Id. Assessing Officer made disallowance of all three incomes amounting to Rs.7,25,430/- by holding that assessee has earned interest from deposits as it generated income which does not qualify for deduction u/s.80P(2)(i) of the Act. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

4. Ld. CIT(A) after going through the submissions and decisions of the Hon'ble Supreme Court in the case of *Tolgar's Co-Operative Sale Society Ltd vs. ITO, (2010) 322 ITR 283 (SC)* confirmed the disallowance on the same reasoning. Aggrieved, assessee preferred an appeal before the Tribunal.

5. I have heard rival contentions and gone through the facts and circumstances of the case. I noted that assessee before the Id. Assessing Officer and also before Id. CIT(A) claimed interest income earned from Tamil Nadu Industrial Co-Operative Bank on FDs maintained with the same and claimed exempt u/s.80P(2)(i) of the Act as Tamil Nadu Industrial Co-Operative Bank is a Co-operative Society registered under Tamil Nadu Co-operative Societies Act, since, it is not governed by Banking Regulation Act 1949 nor holding license from Reserve Bank of India under its control. Ld. Counsel for the assessee submitted that Tamil Nadu Industrial Co-Operative Bank is a Co-operative Society and it is eligible to claim deduction in respect of interest earned on deposits kept in Tamil Nadu Industrial Co-Operative Bank to the extent of Rs.5,82,164/-. This was not confronted by the Id.

Senior Departmental Representative. Hence, this issue was squarely covered by the judgment of 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)(i) of the Act. Accordingly, claim of the assessee to the tune of Rs.5,82,164/- is allowed.

6. As regards to the interest income earned from Indian Bank of Rs.1,33,463/-, Id. Counsel agreed that this interest income of Rs.1,33,463/- earned from Indian Bank is to be disallowed and hence we confirm the order of the Id. CIT(A) with regard to interest income earned from Indian Bank to the tune of Rs.1,33,463/-.

7. With regard to interest income earned from M/s. Tamil Nadu Generation and Disbursement Corporation of Rs.9,803/-, the issue needs verification whether it is a Co-Operative society or it is a Corporation. If it is

Co-operative Society the claim is to be allowed, in case it is run by Corporation no deduction is to be allowed. Hence this issue is remitted back to the file of the Id. CIT(A) for verification only. In terms of the above, this issue is allowed for statistical purpose.

8. In the result, the appeal filed by the assessee in ITA No.1468/CHNY/2023 for assessment year 2018-2019 is partly allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 21st February, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 21st February, 2024

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

