

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.619/Bang/2024
Assessment Year: 2020-21

Prathamik Krishi Pattin Sahakar Sangh Niyamit Mamadapur Tal: Vijayapur Dist. Vijayapur Karnataka 586 105 PAN NO : AABAP4013E	Vs.	ITO Ward-1 & TPS Vijayapur
APPELLANT		RESPONDENT

Appellant by	:	Shri Monish Sowkar, A.R.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department.

Date of Hearing	:	02.05.2024
Date of Pronouncement	:	02.05.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2020-21 dated 19.3.2024. The assessee has raised following grounds of appeal:

- “On the facts and circumstances of the case and in law the learned CIT(A) erred in confirming the addition made by AO by disallowing deduction u/s 80P relating to interest income from cooperative banks of Rs.28,31,868/- deductible u/s 80P(2)(d) and holding it as income from other sources.*
- Without prejudice interest income from co-operative banks is based on statutory requirement as per the governing law i.e. The Karnataka Co-operative Societies Act, 1959 and hence deductible.*
- Without prejudice such interest income is not taxable on gross basis and only net income after deducting expenses is taxable.*

4. *The appellant craves leave to add, alter, amend or modify any of the grounds of appeal."*

2. Facts of the case are that the assessee is a Co-operative credit society registered under The Karnataka Co-operative Societies Act 1959 and is engaged in providing credit facilities to its members. The society has dealings only with its members who are recognized by the governing law and by the bye laws of the society. There are no dealings with outsiders, non members or with public at large. As per section 58 of The Karnataka Co-operative Societies Act, 1959 the assessee society is statutorily required to deposit its funds with Co-Operative Bank.

2.1 This appeal for AY 2020-21 is filed against order dated 19.03.2024 by CIT(A) confirming the addition made by A.O in order u/s 143(3) read with section 144B of the Act of deduction u/s 80P of interest income of Rs.28,31,868/-. Interest income of Rs.28,31,868/- consists of interest income from Vijayapur District Central Co-operative Bank of Rs.23,76,974/- and interest income from DCC Bank of Rs.4,54,894/-. The said interest is deductible u/s 80P(2)(d) of the Act.

2.2 The ld. A.R. submitted that the addition was made by A.O as treating the interest income from other sources u/s 56 of the Act by applying Hon'ble Supreme Court's judgment in the case of Totgar Co-op Sale Society (188 Taxman 282) (SC). According to the ld. A.R., the said judgement is distinguishable on facts which is relating to issue of deduction u/s 80P(2)(a)(i) of the Act and not appliable to deduction u/s 80P(2)(d) of the Act. The issue in the present appeal is covered by the decision of Hon'ble Karnataka High Court in the case of Totagars Co-operative Sale Society (392 ITR 74) (Kar).

2.3 Without prejudice investments are made with Vijayapur District Central Co-operative Bank as per statutory requirement as per the governing law i.e The Karnataka Co-operative Societies Act 1959.

3. The ld. D.R. relied on the order of NFAC.

4. We have heard the rival submissions and perused the materials available on record. As regards the claim of deduction u/s 80P(2)(d) of the I.T. Act, we direct the A.O. to verify whether interest / dividend is received by the assessee out of investments made with Cooperative Societies. If the assessee earns interest / dividend income out of investments with co-operative society, as observed by Hon'ble Supreme Court in the case of Kerala State Co-operative Agricultural and Rural Development Bank Ltd. in Civil Appeal No.10069 of 2016, order dated 14.09.2023, the same is entitled to deduction u/s 80P(2)(d) of the I.T. Act.

4.1 Without prejudice to the above, we make it clear that if the interest earned by assessee from the banks is considered under the head "Income from other sources", relief to be granted to the assessee u/s 57 of the Act in accordance with law. Accordingly, the issue is restored to the file of ld. AO for de-novo consideration with the above observations.

5. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 2nd May, 2024

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 2nd May, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**