

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.237/Bang/2024
Assessment year : 2017-18

Uppur Vyavasaya Seva Sahakari Sangha Niyamita, Head Office, Uppoor Village. Post Thenkabettu, Uppoor 576105. Udupi. PAN : AAAAU 0636M	Vs.	The Income Tax Officer, Ward 2, Udupi.
APPELLANT		RESPONDENT

Appellant by	:	Shri Akshay K., CA
Respondent by	:	Shri Thamba Mahendra, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	25.04.2024
Date of Pronouncement	:	30.04.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 29.12.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 on the following grounds:-

1. “Pertaining to Interest income from Cooperative bank of Rs.37,45,947/-

- 1.1 The appellant contends that interest and dividends received from cooperative banks should be recognised for deduction under Section 80P(2)(d) of the Income Tax Act, 1961. This stance is based on the fundamental nature of cooperative banks as

cooperative societies, which, under the provisions of the Act, entitle the interest received from them to be eligible for such deductions.

- 1.2. Without prejudice to the above ground, the appellant submits that interest income derived from cooperative banks should be considered for deductions under Section 80P(2)(a)(i) of the Income Tax Act, 1961. This is based on the rationale that such interest income is generated from deposits that are statutorily required to be maintained under the Karnataka Cooperative Societies Act, 1959. Therefore, it should be considered as attributable to the appellant's principal business operations.
- 1.3. Without prejudice to the above grounds, the appellant contends that if the interest received from cooperative banks is to be classified and taxed as Income from Other Sources, then it is imperative that such interest income be computed after duly determining and deducting the expenses debited to the income and expenditure account, which are directly related to the generation of this income. This approach ensures that only the net income is subjected to taxation.

2. Pertaining to Provision for Interest expenses of Rs.5,93,078/-

- 2.1. The appellant contends that the provision for interest expenses, made in accordance with the accounting policies stipulated by the Karnataka State Cooperative Societies Act, should be allowed. This assertion is based on the adherence to the statutory accounting framework provided by the said Act, underlining the legitimacy and appropriateness of such provisions in the appellant's financial statements.
- 2.2. Without prejudice to the above grounds, it is hereby submitted before the honourable authority that despite any additions to the profits, the inherent and fundamental character of the appellant as a Cooperative society remains undiminished. Consequently, the appellant prays to the honourable authority to grant the deduction of the entire enhanced profits under Section 80P(2)(a), considering its intact cooperative framework. This request also aligns with the principles set forth in CBDT Circular No. 37/2016, which explicitly states that enhanced profits, subsequent to the making of

additions and disallowances, should be eligible for deductions under Chapter VIA of the Act.

3. Pertaining to Provision for NPA and other expenses of Rs.20,00,000/-

3.1. The appellant contends that the provisions made for NPA and other expenditures must be allowable, as they are indispensable for ascertaining the genuine profitability of the appellant, which is subsequently available for distribution among its members. Furthermore, this approach is in full compliance with the accounting policies as prescribed under the Karnataka State Cooperative Societies Act, underscoring the appellant's adherence to statutory requirements in its financial practices.

3.2. Without prejudice to the above grounds, it is hereby submitted before the honourable authority that despite any additions to the profits, the inherent and fundamental character of the appellant as a Cooperative society remains undiminished. Consequently, the appellant prays to the honourable authority to grant the deduction of the entire enhanced profits under Section 80P(2)(a), considering its intact cooperative framework. This request also aligns with the principles set forth in CBDT Circular No. 37/2016, which explicitly states that enhanced profits, subsequent to the making of additions and disallowances, should be eligible for deductions under Chapter VI A of the Act.

4. The appellant craves leave to add, amend, alter, omit or substitute any of the grounds of appeal at any stage before the appeal is finally heard or adjudicated upon.”

2. At the outset, the ld. AR submitted that as per letter dated 23.4.2024 filed through email, ground Nos. 1.2 & 1.3 are withdrawn. Accordingly these grounds are dismissed as withdrawn.

3. Ground Nos. 2 & 3 relates to disallowance of provision for interest expenses of Rs.5,93,078 and provision for NPA of Rs.20,00,000. The ld. AR submitted that the AO has disallowed these

provision debited to the Profit & Loss account and the CIT(Appeals) has also not accepted the submissions of assessee. The assessee is eligible for benefit of deduction u/s 80P(2)(a)(i) of the Act. on its business profit. He submitted that it is settled issue that as per CBDT Circular No.37/2016 dated 02.11.0216, if any addition is made under profits & gains of business or profession, assessee is eligible to claim of deduction under Chapter VIA and it is part of business income. The disallowance under profits & gains of business or profession enhanced the profit which is eligible for deduction u/s. 80P(2)(a)(i) on its business profits.

4. The ld. DR relied on the orders of lower authorities.

5. Considering the rival submissions, we note that the assessee is a co-operative society and registered under the Karnataka Co-operative Societies Act and is eligible for deduction u/s. 80P(2)(a)(i) of the Act on its business income. The AO noted that assessee has excess debited Rs.5,93,078 under provision for interest expenses which has been disallowed and added back to income of assessee. Further, the AO disallowed provision debited to P&L account of Rs.20 lakhs towards NPA of Rs.8 lakhs, computer maintenance Rs.1 lakh, employees gratuity of Rs.2 lakhs, provision of leave encashment of Rs.3 lakhs and depreciation on account utilisation (enhanced fluctuation fund) – Rs.6 lakhs. However, no benefit of deduction on enhanced profit has been allowed by both the revenue authorities.

6. We note that as per CBDT Circular No.37/2016 dated 02.11.2016, on account of disallowance of above two provisions is eligible for deduction u/s. 80P(2)(a)(i) of the Act on the enhanced business profit. Accordingly ground Nos.2 & 3 of the assessee are allowed.

7. In the result, the appeal of the assessee is partly allowed.

Pronounced in the open court on this 30th day of April, 2024.

Sd/-
(SOUNДАРARAJAN K.)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 30th April, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.