

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.640/Chny/2024
निर्धारण वर्ष/Assessment Year: 2021-22

M/s.The Income Tax Dept. Co-op. Society Ltd., 121, M.G.Salai, Nungambakkam, Chennai-600 034.	v.	The Income Tax Officer, Non-Corporate Ward-3(5), Chennai.
[PAN: AABAT 5584 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri R. Sudharsan, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	20.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	29.05.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/JCIT, (hereinafter 'the Ld.CIT(A)'), Bangalore, dated 10.01.2024 for the Assessment Year (hereinafter 'AY') 2021-22.

2. The main grievance of the assessee is against action of the Ld.CIT(A) confirming the disallowance of deduction claimed u/s.80P(2)(d)



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of the Income Tax Act, 1961 (hereinafter 'the Act') amounting to Rs.72,45,800/- made by the CPC u/s.143(1) of the Act.

3. The brief facts of the case are that the assessee is a Co-operative Society (Credit Cooperative Society) authorized by the Registrar of Cooperative Societies for accepting deposits from its members and lending money to its Members serving in Income Tax Department. The main objective of the society is to provide credit facility to its members serving in the Income Tax Department. In its return filed on 24.12.2021, it admitted a taxable income of Rs. NIL after claiming deduction u/s.80P to the extent of Rs.1,17,94,484/-. [*i.e, the assessee claimed deduction u/s.80P(2)(a)(i) of the Act for the interest income received from the members to the tune of Rs.45,46,556/- (not in dispute) and the assessee also claimed deduction u/s.80P(2)(d) of the Act, for the interest income from deposits to the tune of Rs.69,50,771/- from co-operative societies and Rs.2,95,032/- from co-operatives societies engaged in the business of banking during the relevant previous year 2020-21. Total interest income from such co-operative societies amounted to Rs.72,45,803/-*] Subsequently, the return was processed and intimation dated 02.11.2022 under section 143(1) was passed by CPC disallowing the claim u/s.80P(2)(d) of the Act, amounting to Rs.72,45,803/-. The said disallowance was made by CPC cited the reason that the amount eligible



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for deduction had not been adequately disclosed as part of the Profit and Loss statement in the income tax return.

4. Aggrieved the assessee preferred an appeal before the Ld.CIT(A), who was of the opinion that the interest derived by the assessee/co-operative society from its investment with a Co-operative Bank would not be eligible for deduction u/s.80P(2)(a) of the Act. First of all, we do not agree to the impugned action of the Ld.CIT(A) for the reason that the CPC disallowed the claim for another reason, i.e, *assessee while claiming the amount eligible for deduction had not adequately disclosed as part of the profit and loss statement in the Income Tax Returns.* However, the Ld.CIT(A) taking note of the statement of facts, noted that the assessee had received interest of Rs.72,45,803/- [Rs.69,50,771/-and Rs.2,95,033/-] from Co-operative Societies engaged in the business of banking/Cooperative Bank and has disallowed the claim of the assessee, which impugned action we do not agree. Relevant provisions of Sec.80P(2)(d) of the Act reads as under:

Deduction in respect of income of co-operative societies.

80P.(1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2)The sums referred to in sub-section (1) shall be the following, namely:-

(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;



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[(4) The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation - For the purposes of this sub-section,-

(a) "co-operative bank" and "primary agricultural credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(b) primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.]

5. It is noted that the assessee *inter-alia* had claimed total deduction of Rs.72,45,803/- u/s.80P(2)(d) of the Act i.e. interest income of Rs.69,50,771/- received from the Co-operative Societies, and Rs.2,95,032/- from Co-operative Societies which are engaged in the business of banking. And since, the assessee has received interest from Co-operative Society/ Co-operative Bank which are basically Co-operative Society; therefore, we are of the considered view that interest earned by assessee from another Co-operative Society, which in this case a Co-operative Society/Bank is eligible u/s.80P(2)(d) of the Act; unless the Ld.CIT(A)/AO could show that those Co-operative Banks (from whom assessee earned interest on its deposits) possess a license from the RBI to do banking business with the public; and for such a proposition, we rely on the decision of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. & Others. V. CIT reported in [2021] 431 ITR 1 (SC); and since, it is not the case of the Ld.CIT(A) that the Co-operative Societies/Bank from whom the assessee has derived interest had possessed license from RBI to do banking business, we are unable to



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The Income Tax Dept. Co-op. Society Ltd.

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uphold the impugned action of the Ld.CIT(A). Therefore, we hold that unless the assessee earns interest income from a Co-operative Bank which possess RBI license, the assessee cannot be denied the deduction u/s.80P of the Act, which is a benevolent provision enacted by the Parliament to encourage and promote the cooperative sector in general and therefore, must be read liberally and reasonably and if there is ambiguity in favour of the assessee. A deduction that is given without any reference to any restriction, or limitation cannot be restricted or limited by implication. And it was brought to our notice that in earlier years, the assessee was allowed deduction for such claim u/s.80P(2)(d) of the Act. Therefore, the Ld.CIT(A) ought not to have denied the claim of assessee. Therefore, we set-aside, the impugned order of Ld CIT(A), and direct the AO to allow the deduction claimed by the assessee u/s.80P(2)(d) of the Act, to the tune of Rs.72,45,803/-.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 29th day of May, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 29th May, 2024.
TLN, Sr.PS



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आदेश की प्रतिलिपि अग्रेषित / Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF