

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 478/Bang/2024
Assessment Year : 2020-21

M/s. Karavali Souharda Credit Cooperative Ltd., No. 2550/2, Prathik Complex, 6 th Main, MCC A Block, Davanagere – 577 004. PAN: AAAAK4258M	Vs.	The Income Tax Officer, Ward – 1, Davanagere.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ramanagowda .S. Gowdar, Advocate
Revenue by	:	Shri Subramanian .S, JCIT (DR)

Date of Hearing	:	20-05-2024
Date of Pronouncement	:	04-06-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the assessee is directed against the CIT(A)/NFAC order dated 15.01.2024 vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1059721925(1) passed u/s. 250 of the IT Act, 1961 for the A.Y. 2020-21.

2. The assessee has raised the following grounds:

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal</i>
<i>I.</i>	<i>The order of the Ld. CIT (A) is opposed to the law, facts and circumstances of the case.</i>	<i>N.A.</i>
<i>II.</i>	<i>The order is passed in haste, without providing sufficient and reasonable opportunity of being heard, violating the principle of natural justice and is thus, liable to be quashed.</i>	<i>N.A.</i>
<i>III.</i>	<i>The CIT(A) erred in passing the order without considering the grounds and Facts of the cases raised before the appellate authority the Form 35. In the case of Guttigedarara credit cooperative society Ltd Vs Income tax HC KAN BNG 80p (2) (d) it was held that In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact, this amount which is in the nature of profit and gains, was not immediately required by the assessee to lending money to its members, as there were no takers. Therefore, they had deposited the money in a bank so as to earn interest the said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of section 80p (2) (a) (1) of the Act in fact similar view is taken by the Andrapradesh high court in the case of C.I.T. IV Hyderabad VS and Andrapradesh state cooperative banks Ltd. Reported in (2011)200 taxman 220 12.</i>	<i>Rs.51,90,412/-</i>
<i>IV.</i>	<i>In the case of I.T.O Vs Tumkur Merchants Souharda Coop Ltd 91. Jurisdictional High court of Karnataka it was held that the said interest income is attributable to carrying on the business of banking or providing credit facilities and therefore assessee is entitled to the deduction.</i>	

V.	<p><i>The CIT(A) has erred and not considering the case held in the case u/s Section 80P of the Income-tax Act, 1961 — Deduction — Income of co-operative societies (Credit cooperative society) — Assessee was registered as a co-operative credit society under Karnataka Co operative Societies Act — Its main object was only to advance loan —Whether deduction under section 80P(2)(a)(i) could not be denied to assessee for investment made by it in private or public limited company — Held, yes — [Yamakanmardi Urban Co-operative Credit Society Ltd. v. CIT [2014] 45 taxmann.com 297(Karnataka)].</i></p> <p><i>In the case of Vasavamba Cooperative Society Ltd Vs The pr C.I.T. in ITA No 453/Bang/2020 order dated 13.08.2021, it was held that " Without prejudice to the above, the learned Principal Commissioner ought to have taken note of the submissions made by the appellant that interest received by it amounting to Rs. 1,32,726 from deposits with Mysore & Chamarajanagar District Central Co operative Bank made in compliance with section 58 of the Karnataka Co-operative Societies Act, 1959 constituted its income from the business of providing credit facilities to the members and accordingly, ought to have held that the deduction under section 80 P(2)(a)(i) of the Income Tax Act, 1961 in respect thereof was rightly allowed by the Income Tax Officer. The issue raised by the Assessee in the aforesaid grounds require examination because if there are statutory compulsions that the money should be invested in a particular manner to run business of the Assessee then the interest income arising from such investments have business nexus and should be considered as income derived from the business of providing credit facility to the members. This aspect requires examination by the AO as it has not been raised before the CIT. We therefore modify the order of the CIT by remanding the issue raised in ground No.5 to 7 alone to the AO for examination afresh. In other respects we</i></p>	
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	<i>confirm the order of the CIT.</i>	
VI.	<i>The Appellant craves leave to add, alter, substitute, and delete any or all the grounds of appeal urged above.</i>	
VII.	<i>For the above and other grounds to be urged during the hearing of the appeal, the Appellant prays that the appeal be allowed in the grant of a refund.</i>	
	<i>Total tax effect</i>	<i>Rs.51,90,412/-</i>

3. The brief facts of the case are that the assessee is a credit co-operative society governed by the Karnataka State Souharda Co-operative Act, 1997. Since the date of its inception, the said society is accepting the deposits from its members and providing credit facilities to its members. For the AY 2020-21, the assessee had declared Gross receipts of Rs.2,46,06,454/- and net profit of Rs.51,90,413/-. Further, The assessee had claimed deduction u/s. 80P(2)(a)(i) of the I. Tax Act, 1961 amounting to Rs.51,90,413/-. Thereafter, the Assessee case was taken up for scrutiny and the assessment was concluded by disallowing the deduction claimed u/s. 80P(2)(a)(i) of the IT Act, 1961 amounting to Rs.51,90,413/- on the ground that assessee's claim for deduction with respect to interest income earned from different co-operative banks, commercial banks and other financial institutions is not found to be allowable deduction under any provision of section 80P of the IT Act, 1961 and accordingly, the AO proceeded to treat as other income ("u/s. 56 of the IT Act, 1961"). Thus, the interest earned on investment from co-operative banks to the extent of Rs.53,86,281/- which was treated as income attributable to the business and included in the gross income from "co-operative business" along with interest on loans and advances to members and other income from members after claiming relevant business expenditure claimed deduction of net profit of Rs.51,90,412/- u/s. 80P(2)(a)(i) of the IT

Act, 1961 was disallowed and in the opinion of the AO, the interest earned by the appellant on investment with other co-operative banks shall be charged under the head Income from other Sources u/s. 56 of the IT Act, 1961.

4. Aggrieved by the assessment completed u/s. 143(3) r.w.s. 144B of the I. Tax Act, 1961 vide order dated 22.09.2022, the assessee preferred an appeal before the Ld. CIT(A)/NFAC.

5. The Ld.CIT(A) affirmed the view taken by the assessing officer and dismissed the appeal based on the materials available on record as well as of opinion that the consistency should be maintained as the same issues of the Appellant involved has already been adjudicated for the Asst. Year 2017-18 by the CIT(A) NFAC (supra) & there is no need for fresh adjudication.

6. Aggrieved by the order of the Ld.CIT(A), the assessee has filed the present appeal before the Tribunal.

7. Before us, the Ld.AR submitted that the Learned CIT(A) passed the Order without providing sufficient and reasonable opportunity of being heard which is a clear violation of the principles of natural Justice. Further the Ld. AR submitted that the Ld. CIT(A) erred in Law in passing the Order without considering the grounds and facts of the case.

Further the Ld DR submitted that It is well settled law that the consistency should be maintained and if the issues involved has already been adjudicated recently by the Ld CIT(A) NFAC for the

Asst year 2017-18 & accordingly the appellant is not eligible to claim interest income from investment with co-operative banks as deduction of Rs.51,90,412/- u/s. 80P(2)(a)(i) of the IT Act, 1961.

8. We have heard the rival submissions and perused the material on record. The CIT(A) had dismissed the appeal of the Assessee since five of the Notices issued were not complied & therefore the Ld. CIT(A) was of opinion that as sufficient opportunities to represent the case given which has not availed off & accordingly decided the Appeal based on material available on record. The Ld AR requested to provide one more opportunity of being heard before the Ld. CIT(A). In the interest of justice and fair play, we are of the view that one more opportunity ought to be provided to the Assessee. Accordingly, the issues raised in this appeal are restored to the files of the CIT(A). The Assessee is directed to cooperate with the First Appellate Authority & shall not seek unnecessary adjournment in the matter. It is Ordered Accordingly.

In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 04th June, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 04th June, 2024.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore