

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.829/Bang/2024
Assessment Year : 2017-18

M/s. Sri Vasavi Vividoddesha Souharda Sahakari Niyamitha, 7/454A, Srinivasa Mansion, I Floor, New Bus Stand Road, Kollegal – 571 440. PAN : AADAS 1521 L	Vs.	ITO, Ward – 1, Chamarajanagar.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Vageesh Hegde, CA
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	12.06.2024
Date of Pronouncement	:	13.06.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the order of CIT(A) dated 06.03.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2017-18.

2. Brief facts of the case are as follows:

Assessee is a co-operative registered under the Karnataka Souharda Sahakari Act, 1997. Assessee’s claim of deduction under section 80P of the Act, amounting to Rs.27,32,770/- was rejected in assessment completed under section

143(3) of the Act (order dated 24.12.2019). The reason for rejecting the claim of deduction under section 80P of the Act was that assessee is a Souharda Co-operative and is not a co-operative society as defined under section 2(19) of the Act.

3. Aggrieved by the Assessment Order denying the claim of deduction under section 80P of the Act, assessee preferred appeal before the CIT(A). The CIT(A) following the judgment of the Hon'ble jurisdictional High Court in the case of Swami Vivekanand Credit Souharda Sahakari Ni Beniwad in writ petition 109220/2019 (T – IT) vide order dated 27.01.2020 held that section 80P is available to co-operative society registered under KSS Act, 1976. Accordingly, the CIT(A) allowed the claim of deduction under section 80P(2)(a)(i) of the Act on the loans given to the members amounting to Rs.21,83,134/- and also deduction under section 80P(2)(c) of the Act amounting to Rs.50,000/- for income from e-stamping. However, the CIT(A) denied the deduction of Rs.4,99,636/- claimed under section 80P(2)(d) of the Act. The CIT(A) held that as regards the interest income that is received from co-operative banks, the same is to be assessed as 'Income from Other Sources', hence, cannot be allowed as deduction under section 80P(2)(a)(i) of the Act. It was further held by the CIT(A) that the interest income was paid by a co-operative bank and not a co-operative society, hence, assessee cannot be granted deduction under section 80P(2)(d) of the Act. In taking the above view, the CIT(A) relied on the judgment of the Hon'ble jurisdictional High Court in the case of PCIT Vs. Totgars Sales Society reported in 395 ITR 611 (Karnataka).

4. Aggrieved by the Order of the CIT(A), assessee has preferred this appeal before the Tribunal. The learned AR submitted that co-operative banks are only species of a society and the receipt of interest income from such co-operative banks is also entitled to deduction under section 80P(2)(d) of the Act.

Alternatively, it was submitted that assessee is entitled to deduction under section 57 of the Act in respect of the cost of funds for the interest income that is being assessed as “Income from Other Sources”. In this context, the learned AR relied on the judgment of the jurisdictional High Court in the case of Totgar’s Co-operative Sales Society Ltd., Vs. ITO reported in (2015) 58 taxmann.com 35 (Karnataka) (judgment dated 25.03.2015).

5. The learned DR supported the order of the CIT(A).

6. We have heard the rival submissions and perused the material on record. In the return of income, assessee had claimed deduction under section 80P(2)(d) of the Act in respect of interest income received from MDCC Bank. It is a claim of the assessee that MDCC bank is also a co-operative society and hence entitled to deduction under section 80P(2)(d) of the Act. However, the Hon’ble jurisdictional High Court in the case of PCIT Vs. Totgars Sales Society reported in 395 ITR 611 (Karnataka) had categorically held that interest income received from co-operative banks is to be assessed as “Income from Other Sources”, hence, not entitled to deduction under section 80P(2)(a)(i) of the Act. Further, it was held by the Hon’ble High Court that the said interest cannot be allowed as a deduction under section 80P(2)(d) of the Act since payment was made by the co-operative bank and not a co-operative society. Therefore, the main contention raised by the assessee in view of the judgment of the Hon’ble High Court in the case of PCIT Vs. Totgars Sales Society reported in 395 ITR 611 (Karnataka) is rejected.

7. As regards the alternative contention, we are of the view that cost of funds with regard to interest that is assessed under section 56 of the Act is to be allowed as deduction under section 57 of the Act. In taking the above view, we follow the judgment of the Hon’ble jurisdictional High Court in the case of Totgar’s Co-operative Sales Society Ltd., Vs. ITO reported in (2015) 58 taxmann.com 35

(Karnataka) (judgment dated 25.03.2015). The assessee is directed to work out the cost of funds and submit the same to the AO. The AO is directed to examine the same and allow the cost of funds for earning the interest income that is assessed as "Income from Other Sources" (which has been denied the deduction under section 80P(2)(d) of the Act). It is ordered accordingly.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(WASEEM AHMED)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 13.06.2024.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.