

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

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

|                           |
|---------------------------|
| ITA No.676/Bang/2024      |
| Assessment Year : 2017-18 |

|   |     |                              |
|---|-----|------------------------------|
| M/s. Savanoor Primary Agriculture Credit<br>Co-operative Society Ltd.,<br>Savanoor Co-operative Agricultural Bank Ltd.,<br>Savanoor – 574 202.<br><b>PAN : AAEAT 1118 M</b> | Vs. | ITO,<br>Ward – 1,<br>Puttur. |
| APPELLANT   |     | RESPONDENT                   |

|             |   |  |
|-------------|---|--|
| Assessee by | : | Shri. Srikrishna, CA                             |
| Revenue by  | : | Shri. Ramnathan, Addl. CIT(DR)(ITAT), Bengaluru. |

|                       |   |            |
|-----------------------|---|------------|
| 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 22.02.2024, 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 primary agricultural co-operative society registered under the Karnataka Cooperative Societies Act, 1959. It is engaged in the business of accepting deposits and lending loans to its members. For the Assessment Year 2017-18, the return of income was filed on 27.10.2017 declaring ‘Nil’ income after

claiming deduction of Rs.58,36,943/- under section 80P of the Act. The Assessment was completed under section 143(3) of the Act vide order dated 17.12.2018. In the assessment completed under section 143(3) of the Act, the claim of deduction under section 80P of the Act was denied for the reason that assessee is also dealing with non-members. In this context, the AO relied on the judgment of the Hon'ble Apex Court in the case of Citizen Co-operative Society Ltd., Vs. ACIT reported in (2017) 397 ITR 1. The AO also further disallowed deduction claimed under section 80P of the Act for the interest income received from co-operative banks by placing reliance 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).

3. Aggrieved by the Assessment Order passed under section 143(3) of the Act, assessee preferred appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee. The CIT(A), following the judgment of the Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Ltd., & Ors. Vs. CIT, reported in 431 ITR 1, directed the AO to verify and grant proportionate deduction under section 80P of the Act with regard to the interest income earned by the assessee from its dealing it had with its members.

4. Aggrieved by the Order of the CIT(A), assessee has filed the present appeal before the Tribunal. The learned AR submitted that on identical facts, the Bangalore Bench of the Tribunal in assessee's own case for Assessment Year 2018-19 in ITA No.919/Bang/2023 (Order dated 09.01.2024) had restored the matter to the files of the AO with certain directions. It was submitted that identical directions may be given in the instant case.

5. The learned DR supported the orders of the AO and the CIT(A).

6. We have heard the rival submissions and perused the material on record. The Bangalore Bench of the Tribunal in assessee's own case for Assessment Year 2018-19 had considered identical issues raised in this appeal and had restored the matter to the AO with certain directions to be followed. The narration of facts, the contentions and findings of the Bangalore Bench of the Tribunal reads as follows:

**“9. Issue Nos.1 and 2: Deduction claimed under section 80P(2)(a)(i) and 80P(2)(d) of the Act (Grounds 5 to 8)**

9.1.1 As regards the claim of deduction under section 80P(2)(a)(i) of the Act, the CIT(A) partly allowed the appeal of the assessee by following the judgment of the Hon'ble Apex Court in the case of *Mavilayi Service Co-operative Bank Ltd., & Ors. Vs. CIT*, reported in 431 ITR 1 (SC). The CIT(A) directed the AO to examine whether assessee is extending / providing credit facilities to non-members and income earned out of such activity cannot be granted deduction under section 80P(2)(a)(i) of the Act. The above direction of the learned CIT(A) is in conformity with the dictum laid down by the Hon'ble Apex Court in the case of *Mavilayi Service Co-operative Bank Ltd., & Ors. (supra)*. Hence, we see no reason to interfere with the order of the CIT(A) on this aspect of the issue and we confirm the same.

9.1.2 As regards the interest income earned with investments in co-operative banks, the CIT(A) followed the dictum laid down by the Hon'ble jurisdictional High Court in the case of *PCIT Vs. Totgars Co-operative Society Ltd.*, reported in 395 ITR 611 (Karnataka) which was followed by the Bangalore Bench of the Tribunal in the case of *Vasavamba Co-operative Society Ltd., Vs. PCIT* in ITA No.453/Bang/2020 (order dated 13.08.2021). The CIT(A) has elaborately extracted the order of the Tribunal in the case of *Vasavamba Co-operative Society Ltd., (supra)* (refer para 8.1 of the CIT(A)'s order). Therefore, we are not reiterating the same in this order. The Bangalore Bench of the Tribunal in the case of *Vasavamba Co-operative Society Ltd., (supra)* had categorically held that with regard to interest / dividend income earned out of investments made with banks / government securities is not entitled to deduction either under sections 80P(2)(a)(i) or 80P(2)(d) of the Act. Therefore, following the judgment of the Hon'ble High Court in the case of *PCIT Vs. Totgars Co-operative Society Ltd., (supra)* and the order of the Bangalore Bench of the Tribunal in the case of *Vasavamba Co-operative Society Ltd., Vs. PCIT (supra)*, we hold that CIT(A) is justified in not granting deduction either

*under section 80P(2)(a)(i) or under section 80P(2)(d) of the Act with respect to the interest income earned on investments made with co-operative banks / scheduled banks.*

*9.1.3 The learned AR, during the course of hearing before the Tribunal, had contended that assessee ought to be allowed cost of funds with regard to interest income that is assessed under section 56 of the Act. We find this prayer of the assessee has been duly heeded to by the CIT(A) by allowing ground No.7 raised before him. The CIT(A), by following the judgment of the Hon'ble jurisdictional High Court in the case of Totgars Co-operative Sale Society Ltd., Vs. ITO reported in (2015) 58 taxmann.com 35 (Karnataka), had directed the AO to allow cost of funds.*

*9.1.4 Further, assessee has also raised the contention in the grounds that interest received from certain co-operative banks is on account of compliance with Rule 28 of the Karnataka Co-operative Societies Rules, 1960. Therefore, it constitutes income from business of providing credit facilities to its members and hence the same is eligible for deduction under section 80P(2)(a)(i) of the Act. This identical contention of the assessee has also been dealt with by the Bangalore Bench of the Tribunal in the case of Vasavamba Co-operative Society Ltd., Vs. PCIT (supra). The Bangalore Bench of the Tribunal, in the aforesaid case, had restored the matter to the AO for fresh examination. The relevant finding of the Bangalore Bench of the Tribunal reads as follows:*

*“18. 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 confirm the order of the CIT.”*

*9.1.5 In light of the aforesaid order of the Bangalore Bench of the Tribunal, we direct the AO to examine whether interest income is earned out of investments which are in compliance under the relevant Karnataka Co-operative Societies Rules and Act. If the same is found to be out of compulsions, the interest income derived would be entitled to deduction under section 80P(2)(a)(i) of the Act. With the aforesaid observations, we restore grounds 5 to 8 to the files of the AO. It is ordered accordingly.”*

7. In light of the aforesaid order of the ITAT in assessee's own case for Assessment Year 2018-19, we restore the matter to the files of the AO. The AO is directed to comply with the directions of the ITAT which are contained in the order of the ITAT for Assessment Year 2018-19 and take a decision in accordance with law. 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.