

IN THE INCOME TAX APPELLATE TRIBUNAL COCHIN BENCH, COCHIN
BEFORE SHRI SANJAY ARORA, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No.119/Coch/2023
(Assessment Year: 2018-19)

M/s. Pooyappally Service Co-operative Bank Limited No. 3964, Meeyannoor, Pooyappally-PO, Kollam-691 537	Vs.	The Income Tax Officer, Ward-2(1), Kollam
PAN/GIR No. AAFAP 8166 L		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Krishnan R.
Respondent by	:	Shri Sanjit Kumar
Date of Hearing	:	07.03.2024
Date of Pronouncement	:	07.06.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2018-19.

2. The assessee has challenged this appeal on the following grounds:

- 1) *The learned officers below erred in denying deduction u/s 80P(2)(a), 80P(2)(c), 80P(2)(d) of the Income Tax Act.*
- 2) *The learned officers ought to have noted that the appellant was registered as a co-operative society and therefore the provisions of section 80P(2)(a) applied in the case of the appellant.*
- 3) *The learned officers below ought to have appreciated that the income of the appellant from investments in banks and other co-operative societies were assessable under the head 'business'.*

4) *The learned Commissioner of Income Tax (Appeals) ought to have noticed that the Assessing officer has not examined the case of the appellant in detail and had merely refused deduction u/s 80P(2) and the alternative argument of the appellant that expenses to generate interest income on deposits from banks etc should also have been granted as a deduction which is bad in law.*

3. The brief facts are that the assessee is a co-operative society and Primary Agricultural Credit Society (PACS) registered under the Kerala Cooperative Societies Act, 1969 (Kerala Act) and is engaged in the business of banking and credit facilities to its members. The assessee had filed its return of income on 08.10.2018 declaring total income at Rs.Nil. The assessee's case was selected for scrutiny and notice u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee.

4. The learned Assessing Officer (ld. A.O. for short) observed that the assessee has received interest income of Rs.3,41,79,966/- out of the investments made in different branches of Pooyappally Service Co-operative Bank which according to the ld. A.O. would fall under the head 'income from other source' as per section 56 of the Act and not under the head 'profit and gains of business or profession' as per section 28 of the Act for the reason that the said interest was not attributable to the activities of the assessee and was out of the surplus fund deposited by the assessee. The ld. A.O. disallowed the interest income earned by the assessee u/s. 80P of the Act.

5. The first appellate authority, on the other hand, had allowed the deduction of the assessee u/s. 80P(2)(d) of the Act, thereby holding the same to be 'income from other sources'.

6. Aggrieved the assessee is in appeal before us.

7. We have heard the rival submissions and perused the materials available on record. The ld. AR for the assessee during the appellate proceeding had stated that only

the alternate argument in ground no. 4 has to be decided in the present appeal where the expenditure incurred to generate interest income on deposits from banks and treasury should have been granted as 'deduction' by the lower authorities. The Id. AR further stated that the assessee was unable to furnish details pertaining to such expenditure where the deposits could also be from borrowed funds. It is observed that the assessee has neither before the Id. A.O. nor before the Id. CIT(A) has furnished details pertaining to the source of the deposits in bank and treasury where the Id. A.O. has held that the interest income earned from treasury is not an allowable deduction u/s. 80P of the Act. When the same has been held to be not an allowable deduction, then the assessee is entitled to claim expenditure incurred for the purpose of earning such income as per section 57(iii) of the Act. In the above factual matrix of the case, we deem it fit to restore this limited issue to the file of the Id. A.O. for verification of the same based on the details proposed to be filed by the Id. AR. It is needless to say that the assessee should cooperate with the proceedings without any undue delay.

10. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced on 07.06.2024 under rule 24 of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

(Sanjay Arora)
Accountant Member

Mumbai; Dated : 07.06.2024
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Cochin
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Cochin