

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.994/Bang/2024
Assessment Years : 2020-21

M/s Karnataka Power Transmiss, 71-71, KPTCL Employee Co-op. Power House, Station Road, Raichur – 584 102. PAN – AAAAK 4223 F	Vs.	The Income Tax Officer, Ward – 1, Raichur.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Sunaiana Bhatia, C.A
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Department

Date of hearing	:	20.06.2024
Date of Pronouncement	:	24.06.2024

ORDER

PER SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

The present appeal of the assessee is arising from the order passed by the NFAC, Delhi dated 29/04/2024 in DIN No. ITBA/NFAC/S/250/2024-25/1064431034(1) for the assessment year 2020-21.

2. The assessee is cooperative society registered under the Karnataka State Co-operative Society's Act 1959. The society is engaged in the activity of carrying of business of providing credit facilities to its members. It filed its return of income on 24/09/2020 declaring Nil income. The case of the assessee was selected for scrutiny after issuing statutory notices. During the course of assessment proceedings,

the AO observed that the assessee has earned interest income received from cooperative institutions amounting to Rs.10,12,973/- and dividend income of Rs.1,13,240/-. The AO relying on the judgment of DCIT Vs. Totagars Co-operative Society Ltd, has held that assessee is not entitled for deduction on the amounts of interest income as well as dividend income. Accordingly, the AO assessed that income under the head 'income from other sources' and made an addition of Rs 11,86,369/-.

3. Aggrieved with the order of the AO, the assessee filed appeal before the Id. CIT (A) and *interalia* contended that the AO has wrongly relied upon the judgment of Hon'ble Supreme Court in the case of Totgars Society in as much as in that case, the main business activity of the society was trading in goods and in the case of the assessee primary business activity is dealing in money and assessee's case is covered by the provisions of sec. 80P(2)(a) of the Act. However, the Id. CIT(A) dismissed the appeal of the assessee ex-parte. Though the Ld CIT(A) has mentioned that notices of hearing were issued to assessee, however he failed to pin point as to whether any notice was actually served on assessee or not. Ld CIT(A) has dismissed the appeal without considering the merits of the case in terms of the provisions of sec.250(6) of the Act.

4. Aggrieved with the order of the Id. CIT(A), the assessee preferred an appeal before us and raised as many as 6 grounds of appeal. However, at the time of haring, the Id. Counsel for the assessee craved that the matter may kindly be restored to the file of AO for fresh adjudication and examining the contentions of the assessee in terms of the provisions of sec. 80P(2)(d) of the Act.

5. The Id. DR relied upon the orders of the authorities below and prayed that the matter may be restored to the file of Id. CIT(A).

6. We have heard the rival submissions and perused the materials available on record. As regards the claim of deduction u/s 80P(2)(d) of the I.T. Act, we direct the A.O. to verify whether interest / dividend is received by the assessee out of investments made with Cooperative Societies. If the assessee earns interest / dividend income out of investments with co-operative society, as observed by Hon'ble Supreme Court in the case of **Kerala State Co-operative Agricultural and Rural Development Bank Ltd. in Civil Appeal No.10069 of 2016, order dated 14.09.2023**, the same is entitled to deduction u/s 80P(2)(d) of the I.T. Act.

6.1 Without prejudice to the above, we make it clear that if the interest earned by assessee from the banks is considered under the head "Income from other sources", relief to be granted to the assessee u/s 57 of the Act in accordance with law. Accordingly, the issue is restored to the file of Id. AO for de-novo consideration with the above observations. Hence, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court on 24th day of June, 2024

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(SHRI PRAKASH CHAND YADAV)
Judicial Member

Bangalore,
Dated:- 24 June, 2024

/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore