

**IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU “C” BENCH, BENGALURU**

**Before Shri Chandra Poojari, Accountant Member
and
Shri Soundararajan K., Judicial Member**

ITA No. 777/Bang/2024 (Assessment Year:2018-19)		
Surabhi Souharda credit Co-operative Society Ltd. #2, Surabhi Sahakari Sadana 13th Cross, Banashankari 2nd Stage, Bengaluru 560070 PAN – AAFAS0815D	vs.	The Income Tax Officer Ward - 7(2)(5) Bengaluru
(Appellant)		(Respondent)

Assessee by:	Shri Kiran Kumar, Advocate
Revenue by:	Shri V. Parithivel, JCIT-DR

Date of hearing:	04.06.2024
Date of pronouncement:	24.06.2024

ORDER

Per: Soundararajan K., J.M.

This is an appeal by the assessee against the order of the National Faceless Appeal Centre, Delhi (CIT(A)) passed under Section 250 of the Income Tax Act, 1961 (the Act) dated 14.03.2024 in respect of the Assessment Year (AY) 2018-19.

2. The brief facts of the case are that the assessee is a co-operative society registered under the provisions of the Karnataka Souharda Sahakari Act, 1997 and filed its return of income on 24.12.2018 declaring Nil income and claimed deduction under the provisions of s. 80P(2)(a)(i) of the Act. The Id. Assessing Officer (AO) had disallowed the claim of exemption on the ground that the assessee is not a co-operative society registered under the provisions of the

Karnataka Co-operative Societies Act and, therefore, the provisions of Sec. 80P would not apply to them. The assessment was completed under Section 143(3) of the Act and the Id. AO had treated the entire income received by the assessee as taxable. The assessee challenged the said order of the Id. AO by filing an appeal before the CIT(A) and contended that the assessee is a co-operative organisation entitled for exemption under Section 80P of the Act. The learned CIT(A) had set aside the findings of the Id. AO and held that the assessee is a co-operative organization but upheld the levy of tax on the interest income earned by the assessee on the ground that the interest income received from banks as well as co-operative banks are not entitled for deduction under Sections 80P(2)(a)(i) and 80P(2)(d) of the Act. The assessee challenged the above said order of the learned CIT(A) and raised the following grounds of appeal: -

- “1. The National Faceless Appeal Centre erred in holding bank interest of Rs.4,84,68,333 and interest on I.T. Refund of Rs.81,289, totalling to Rs.4,85,49,622, falls under 'Income from other sources' although the assessee explained that it is in the nature of 'profit and gains of business' entitled for u/s.80P(2)(a)(i) of the Income-tax Act, 1961.*
- 2. Without prejudice to ground No.1 above, the National Faceless Appeal Centre erred in denying deduction of interest from co-operative banks of Rs.4,79,99,955, claimed u/s.80P(2)(d) of the Income- tax Act, 1961, since interest from co-operative banks was derived by the assessee from its investments with co-operative Banks.”*

3. At the time of hearing the learned A.R. of the assessee filed an application to raise the following additional grounds and confined his arguments only to additional ground No. 1: -

- “1.The determination of interest income of Rs. 4,85,49,622 without deduction of amount expended wholly and exclusively for the purpose of earning interest income as per sec.57(iii) of the Income-tax Act, 1961, is an error.*

2. *The assessment has been made over-stepping the issues of limited scrutiny and, therefore, the order of assessment u/s. 143(3) r.w.sec.144B is liable to be annulled.”*
4. The learned D.R. submitted that the orders of the lower authorities are in order since the interest income was received from the non-members and, therefore, the same are not entitled for exemption under Section 80P of the Act.
5. We have heard the rival contentions and perused the materials available on record and the application seeking permission of this Tribunal to raise additional grounds. We found that the additional grounds are nothing but an alternate argument in respect of the interest income disallowed by the Id. Assessing Officer (AO) and therefore, accepted the additional grounds raised by the assessee. Now the only issue to be decided is whether the interest income received on the reserve funds deposited with the coop banks and other banks are eligible for deduction u/s 80P of the Act when there is no statutory liability under the provisions of the Karnataka Coop Societies Act. In these issue there are number of orders of this Tribunal that the income should be assessed under the head “income from other sources” and the claim of deduction u/s 57 of the Act in respect of the cost of funds for earning such interest income should be considered by the AO.
6. We find that the learned A.R., had also made a plea in the additional grounds, to consider the interest income received from various banks as income from other sources and subject the same under the provisions of s. 55 of the Act after granting the expenditure incurred wholly and exclusively for the purpose of earning the interest income. Similar issue came up for consideration before the coordinated Bench of this Tribunal in ITANo.751/Bang/2023 dated 21.11.2023 in the case of Sri Dodmane Group Gramagala Seva Sahakari Sangha Niyamita Karkimakki in which it was held as follows: -

“If the assessee is not entitled to benefit of deduction either u/s 80P(2)(a)(i) or u/s 80P(2)(d) of the Act, the AO shall consider the claim of deduction u/s 57 of the Act in respect of the cost of funds for earning such interest income which is assessed as income under the head ‘income from other sources’. For the direction to grant deduction for the cost of funds, I rely on the judgement 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)”.

7. We, respectfully follow the above order of this Tribunal and set aside the orders of the lower authorities and remit the issue to the file of the Id. AO to consider the issue afresh and treat the interest income received from the banks/co-operative banks as income from other sources and assess the same under Sec 57 of the Act after granting the necessary deductions. We order accordingly.

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

Order pronounced in the open Court on 24th June, 2024.

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Soundararajan K.)
Judicial Member

Bengaluru, Dated: 24th June, 2024
n.p.

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

By Order

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Assistant Registrar
ITAT, Bengaluru