

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.700/Coch/2023
Assessment Year: 2020-21

The Mangode Service Co-operative Bank Ltd. Mangode Post Cherplachery (via) Palakkad 679 503 Kerala  <b>PAN NO : AABAT2649E</b>	<b>Vs.</b>	ITO Palakkad
<b>APPELLANT</b>		<b>RESPONDENT</b>

SP No.158/Coch/2023 (Arising out of ITA No.700/Bang/2023)
Assessment Year: 2020-21

The Mangode Service Co-operative Bank Ltd. Mangode Post Cherplachery (via) Palakkad 679 503 Kerala  <b>PAN NO : AABAT2649E</b>	<b>Vs.</b>	ITO Palakkad
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Suresh Kumar, A.R.
<b>Respondent by</b>	:	Sri Ilaiyaraja K.S., Sr. D.R.

<b>Date of Hearing</b>	:	01.07.2024
<b>Date of Pronouncement</b>	:	01.07.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal and stay petition by assessee are directed against order of NFAC for the assessment year 2020-21 dated 24.8.2023.

**2.** The assessee raised grounds with regard to granting of deduction u/s 80P(2)(a)(i) and 80P(2)(d) of the Income Tax Act, 1961 (in short "The Act").

**3.** The ld. A.R. relied on the decision of Bangalore Bench in the case of Sri Laxminarayana Suvarna Credit Co-operative Society Ltd. Vs. ITO Sirsi in ITA Nos.122 & 123/Bang/2024 dated 7.5.2024 for grant of deduction u/s 80P(2)(a)(i) & 80P(2)(d) of the Act.

**4.** We have heard the rival submissions and perused the materials available on record. The Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Ltd. & Ors. v. CIT & Anr. (123 taxman.com 161) had held that the co-operative societies providing credit facilities to its members is entitled to deduction u/s 80P(2)(a)(i) of the Act. The Hon'ble Apex Court after considering the judicial pronouncements on the subject, had stated the term "member" has not been defined under the Income-tax Act. It was, therefore, stated by the Hon'ble Apex Court that the term "member" in the respective State Co-operative Societies Acts under which the societies are registered have to be taken into consideration. The Hon'ble Apex Court held that if nominal / associate member is not prohibited under the said Act, for being taken as a member, the income earned on account of providing credit facilities to such member also qualify for deduction u/s 80P(2)(a)(i) of the Act. It was further held by the Hon'ble Apex Court that section 80P(4) of the I.T. Act is to be read as a proviso. It was stated by the Hon'ble Apex Court that section 80P(4) of the Act now specifically excludes only co-operative banks which are co-operative societies engaged in the business of banking i.e. engaged in lending money to members of the public, which have a license in this behalf from the RBI. The Hon'ble Apex Court had enunciated various principles in regard to deduction u/s 80P of the Act.

**4.1.** On identical factual situation, the Bangalore Bench of the Tribunal in the case of M/s. Ravindra Multipurpose Cooperative Society Ltd. v. ITO in ITA No.1262/Bang/2019 (order dated 31.08.2021) had remanded the issue to the files of the A.O. for de novo consideration. The Tribunal directed the A.O. to follow the dictum laid down by the Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Ltd. & Ors. v. CIT & Anr. (supra). The relevant finding of the Co-ordinate Bench of the Tribunal in the case of M/s. Ravindra Multipurpose Cooperative Society Ltd. v. ITO (supra), reads as follows:-

*“6. Grounds 2-4 & additional Ground No.1:*

*In respect of associate / nominal members, Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. v. CIT (2021) 123 taxmann.com 161 (SC) has held that the expression “Members” is not defined in the Income-tax Act. Hence, it is necessary to construe the expression “Members” in section 80P(2)(a)(i) of the Act in the light of definition of that expression as contained in the concerned co-operative societies Act. In view of this, the facts are to be examined in the light of principles laid down by the Hon'ble Supreme Court in Mavilayi Service Cooperative Bank Ltd. (supra).*

*Accordingly, we remit this issue of deduction u/s 80P(2)(a)(i) of the Act to the files of Ld.AO to examine the same de novo in the light of the above judgment. Needless to say that proper opportunity of being heard is to be granted to assess in accordance with law.”*

**4.2** In view of the order of the ITAT, which is identical to the facts of the case, we restore the issue of claim of deduction u/s 80P(2)(a)(i) of the Act to the file of the A.O. for de novo consideration.

**5.** Next issue in this appeal is with regard to granting of deduction u/s 80P(2)(d) of the Act.

**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.

**6.2** Accordingly, the issue in dispute is remitted to the file of Id. AO for fresh consideration.

**7.** Since the issue in dispute is remitted to the file of Id. AO for fresh consideration the stay petition filed by the assessee becomes infructuous and dismissed.

**8.** In the result, appeal of the assessee is partly allowed for statistical purposes and stay petition filed by the assessee is dismissed.

Order pronounced in the open court on 1<sup>st</sup> July, 2024

**Sd/-**  
**(Soundararajan K.)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 1<sup>st</sup> July, 2024.  
VG/SPS  
Copy to:

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

By order

**Asst. Registrar,  
ITAT, Bangalore.**