

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 1005/Bang/2024</b>
<b>Assessment Year : 2019-20</b>

M/s. Sahakaranagara Credit Co-operative Society Ltd., No. 415/3, F Block, Sahakar Nagar, Byatarayanapura, Bangalore – 560 092. <b>PAN: AABAS1364H</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 6 (3) (1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Aprameya, Advocate
Revenue by	:	Shri Tamil Selvan S, Addl. CIT (DR)

Date of Hearing	:	01-07-2024
Date of Pronouncement	:	08-08-2024

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 26.03.2024 passed by Ld.Addl/JCIT(A)-1, Gurugram for A.Y. 2019-20. The grounds filed by the assessee revolves on the disallowance made u/s. 80P(2)(a)(i) and non-consideration of interest earned from fixed deposits u/s. 80P(2)(d) of the Act.

**2. Brief facts of the case are as under:**

**2.1** The assessee is a cooperative society registered under the provisions of the Karnataka Cooperative Societies Act, 1959. The assessee is carrying on the business of providing credit facilities to its members. The main objective of the society is accepting deposits from its members and redeploying the funds by way of advance to the members in the form of loans. The same is authorized by the bye-laws of the society and approved by the Assistant Registrar of the cooperative society who is the competent authority.

**2.2** The assessee society filed its return of income for the assessment year 2019-20 declaring total income as Nil. The assessee was issued notice u/s.143(1)(a) and the assessee filed revised returns in response on 24/01/2020 declaring income of Rs.3,29,850/- being rental income received. The assessee claimed a deduction of Rs.3,69,25,623/- as per the revised returns.

**2.3** The assessee received an intimation u/s.143(1) of the Act passed by the Centralised Processing Centre(CPC) disallowing Rs.57,90,210 claimed u/S.80P(2)(a)(i) of the Act creating a demand of Rs.19,73,863/-.

Aggrieved by the intimation, the assessee preferred appeal before Ld.CIT(A).

**2.4** The Ld.CIT(A) dismissed the appeal on the ground of delay in filing return and did not go into the merits of the issue.

Aggrieved by the order of the Ld.CIT(A), assessee is in appeal before this *Tribunal*.

**3.** The Ld.A.R. filed paper book and a list of citations in which this *Tribunal* decided the issue in favour of the assessee and remitted to the file of Ld.AO to pass fresh order on the basis of the judgement of *Hon'ble Apex Court* in the case of *Kerala State Cooperative Agricultural Rural Development Vs. AO* reported in 458 ITR 384 (SC). The assessee also relied on the following decision of this *Tribunal*:

a) *Decision of Bangalore Bench of Tribunal in ITA No.751/Bang/2023 dated 21.11.2023 in the case of Sri Dodmane Group Gramagala Seva Sahakari Sangha Niyamita Karkimakki Vs. ITO*

b) *Decision of Bangalore Bench of Tribunal in ITA No.1007/Bang/2023 dated 6.2.2024 in the case of M/s. Primary Agricultural Credit Co-operative Society Ltd. Vs. ITO*

**3.1** The ld. D.R. relied on the orders of the lower authorities and prayed to dismiss the appeal.

We have heard the rival submissions and perused the materials available on record.

**4.1** The decisions of Bangalore Bench of *Tribunal* relied on by the assessee in *ITA No.751/Bang/2023* dated 21.11.2023 in the case of Sri Dodmane Group Gramagala Seva Sahakari Sangha

Niyamita Karkimakki Vs. ITO in which we found that similar issue came up for hearing and the *Tribunal* decided the issue as follows:

*“7. I have heard the rival submissions and perused the material on record. The assessee’s claim of deduction under section 80P has been disallowed to the extent of Rs.6,97,062/- for the reason that such interest income is received on investments made with District Co-operative Bank. It is the contention of the assessee that investments in District Co-operative Bank are in compliance with the requirement under the Karnataka Co-operative Societies Act and the relevant Rules. Therefore, the interest income is entitled to deduction under section 80P(2)(a)(i) of the Act. On identical factual situation, the Bangalore Bench of the Tribunal in the case of Canara Bank Staff Credit Co-operative Societies Ltd., in ITA No.517/Bang/2023 (order dated 03.10.2023) had restored the matter to the AO to examine whether the amounts invested with the Co-operative Banks are out of compulsion under the Karnataka Co-operative Societies Act and the relevant Rules. It was further held by the Tribunal that if the investments are out of compulsion under the Act and the relevant Rules, the interest income received out of the investment made under such compulsion would be liable to be taxed as ‘income from business’ which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act. The relevant finding of the Bangalore Bench of the Tribunal reads as follows:*

*“7. I have heard the rival submissions and perused the material on record. The interest income is received out of investments made with Apex Cooperative Bank. It is the case of the assessee that the investments are made out of compulsions as per the Karnataka Co-operative Societies Act, 1959, and the relevant Rules. The Hon’ble Apex Court in the case of CIT Vs. Karnataka State Co-operative Apex Bank (supra) had held that when amounts are invested by the Co-operative Societies as per the statutory requirements, the same would be entitled to deduction under section 80P(2)(a)(i) of the Act. The Hon’ble Apex Court considered the following question of law:*

*“Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the interest income arising from the investment made out of reserve fund is exempt under section 80P(2)(a)(i) of the Income-tax Act, 1961?”*

8. In considering the above question, the Hon’ble Apex Court rendered the following findings:

*“4. This judgment was cited before the Bench of two learned Judges which decided the case of the Bangalore District Co-operative Central Bank Ltd. (supra). It was considered as having been rendered on its own facts and not applicable to the case of Bangalore District Co-operative Central Bank Ltd. (supra) in view of the finding of the Tribunal that the income*

*in question was attributable to the business of that assessee. The Court referred to the Banking Regulation Act, the Karnataka Cooperative Societies Act and the Karnataka Co-operative Societies Rules, which showed that the investments that had been made by the assessee were in compliance with the statutory provisions and in order to carry on the business of banking. They were necessary and consequently, they were part of the business activities of the assessee falling within the scope of section 80P(2)(a)(i).*

*5. We do not agree with the finding of the Bench which decided the Bangalore District Co-operative Central Bank Ltd.'s case (supra) that the decision in the case of M.P. Co-operative Bank Ltd. (supra) was rendered on its own facts. The latter decision was clearly a reasoned decision.*

*6. The question is whether we agree with the reasoning in M.P. Cooperative Bank Ltd.'s case (supra). There is no doubt, and it is not disputed, that the assessee-co-operative bank is required to place a part of its funds with the State Bank or the Reserve Bank of India to enable it to carry on its banking business. This being so, any income derived from funds so placed arises from the business carried on by it and the assessee has not, by reason of section 80P(2)(a)(i), to pay income-tax thereon. The placement of such funds being imperative for the purposes of carrying the banking business, the income derived therefrom would be income from the assessee's business. We are unable to take the view that found favour with the Bench that decided the case M.P. Co-operative Bank Ltd. (supra) that only income derived from circulating or working capital would fall within section 80P(2)(a)(i). There is nothing in the phraseology of that provision which makes it applicable only to income derived from working or circulating capital.*

*7. In the premises, we take the view that the decision of this Court in the case of M.P. Co-operative Bank Ltd. (supra) does not set down the correct law and that the law is as we have put it above. The question, accordingly, is answered in the affirmative and in favour of the assessee."*

*9. A similar view that has been held by the Hon'ble Andhra Pradesh High Court in the case of CIT-II, Hyderabad Vs. Andhra Pradesh State Cooperative Bank Ltd., reported in 336 ITR 516 (AP).*

*10. The Bangalore Bench of the Tribunal in the case of M/s. The Bharathi Cooperative Credit Society Vs. ITO in ITA No.793/Bang/2022 (order dated 28.11.2022) for Assessment Year 2015-16, following its earlier order in the case of M/s. Vasavamba Co-operative Society Ltd., Vs. The PCIT in ITA No.453/Bang/2020 (Order dated 13.08.2021), had rendered a similar finding which reads as follows:*

*“7.1 In the instant case, it was contended that majority of the interest income is earned out of investments made with Cooperative Banks and is in compliance with the requirement under the Karnataka Cooperative Societies Act and Rules. If the amounts are invested in compliance with the Karnataka Co-operative Societies Act, necessarily, the same is to be assessed as income from business, which entails the benefit of deduction u/s 80P(2)(a)(i) of the I.T.Act. Insofar as deduction u/s 80P(2)(d) of the I.T.Act is concerned, we make it clear that interest income received out of investments with cooperative societies is to be allowed as deduction.”*

*11. In light of the aforesaid reasoning and the judicial pronouncements cited supra, we restore this issue to the files of the AO. The AO is directed to examine whether the amounts invested with Apex Co-operative Bank and other banks, are out of compulsions under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules. If it is found that the investments are made out of compulsions under the Act and the relevant Rules, the interest income received out of the investments made under such compulsions would be liable to be taxed as “business income” which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act. With the aforesaid observation, we restore the matter to the AO. It is ordered accordingly.*

*12. In the result, appeal filed by the assessee is allowed for statistical purposes.”*

*8. In the event it is found that assessee is not entitled to get the benefit under section 80P(2)(a)(i) of the Act, the AO shall also examine whether it is entitled to deduction under section 80P(2)(d) of the Act in light of the recent judgment of the Hon’ble Apex Court in the case of Kerala State Co-operative Agricultural Rural Development Vs. AO (supra). If the assessee is not entitled to benefit of deduction either under section 80P(2)(a)(i) or under section 80P(2)(d) of the Act, the AO shall consider the claim of deduction under section 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 judgment of the jurisdictional High Court in the case of Totgar’s Co-operative Sales Society Ltd., Vs. ITO reported in (2015) 58 [taxmann.com](http://taxmann.com) 35 (Karnataka) (judgment dated 25.03.2015).”*

**4.2** This view has been followed by this Tribunal in ITA No.1007/Bang/2023 dated 6.2.2024 in the case of M/s. Primary Agricultural Credit Co-operative Society Ltd. Vs. ITO.

**4.3** In view of the order of this Tribunal, which is identical to the facts of the present case, we restore the issue of claim of deduction

u/s 80P(2)(a)(i)/(d) of the Act to the file of the A.O. for de novo consideration.

**4.4** Without prejudice to the above, we make it clear that if the interest earned by assessee from the banks are 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 Ld.AO for de-novo consideration with the above observations.

**Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.**

**In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.**

**Order pronounced in the open court on 08<sup>th</sup> August, 2024.**

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 08<sup>th</sup> August, 2024.  
/MS /

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|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore