

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

ITA No.1339/Bang/2024
Assessment Year: 2017-18

Hunnur Souhard Credit Sahakari Sangh Niyamit Hunnur Basaveshwar Complex, Hunnur Jamakhandi Bagalkot 587 119  <b>PAN NO : AAAAH8911N</b>	<b>Vs.</b>	ITO Ward-2 Bagalkot
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Veeranna M. Murgod, A.R.
<b>Respondent by</b>	:	Sri Ganesh R. Ghale, Standing Counsel for department

<b>Date of Hearing</b>	:	19.08.2024
<b>Date of Pronouncement</b>	:	21.08.2024

**O R D E R**

**PER YOGESH KUMAR U.S. JUDICIAL MEMBER:**

This appeal by assessee is directed against order of NFAC dated 16.05.2024 for the assessment year 2017-18 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act).

2. The assessee came in appeal before us with regard to rejecting the claim of assessee u/s 80P(2)(a)(i) of the Act by ex-parte order of NFAC.

3. We have heard the rival submissions and perused the materials available on record. The ld. CIT(A) dismissed the appeal of the assessee for non-prosecution without deciding the issues on merit. In our opinion, in the interest of justice, it is appropriate to remit the issue to the file of ld. CIT(A) to decide the issue on merit after taking into note of the order of the decision of this Tribunal in

the case of Kotekar Vyavasaya Seva Sahakara Sangha Niyamitha in ITA Nos.452 to 454/Bang/2024 dated 1.5.2024, where in the Tribunal held as under:

*“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. 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. (surpa).*

*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.”*

**4.1** *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.”*

3.1 Accordingly, the grounds raised by the assessee are remitted to the file of Id. CIT(A)/NFAC for fresh consideration for giving an opportunity of hearing to the assessee.

4. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 21<sup>st</sup> Aug, 2024

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Yogesh Kumar U.S.)**  
**Judicial Member**

Bangalore,  
Dated 21<sup>st</sup> Aug, 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.**