

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.1003/Bang/2024
Assessment year : 2012-13

BSNL Employees Co-operative Society Ltd., 1 <sup>st</sup> Floor, RR Mahalakshmi Mansion, Pinto Road, Near Desai Cross, Hubli – 580 020. <b>PAN : AAAAT 7546B</b>	Vs.	The Assistant Commissioner of Income Tax, Circle 3(1), Hubli.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri V. Parithivel, Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	31.07.2024
Date of Pronouncement	:	21.08.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the order dated 26.3.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2012-13 on the following grounds:-

“1. The appellate order passed by the learned Commissioner of Income-tax [Appeals], NFAC, Delhi, under Section 250 of the Act dated 26/03/2024, in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case, may be quashed.

2. The appellant denies itself liable to be assessed on a total income of Rs. 67,80,387/- determined by the learned assessing officer and confirmed by the learned Commissioner of Income-tax [Appeals] as against the total income returned / reported by the appellant of Rs. NIL/-, on the facts and circumstances of the case.

3. The learned Commissioner of Income-tax [Appeals] and the learned assessing officer were not justified in denying the eligible deduction claimed by the appellant of a sum of Rs. 67,80,387/- under the provision of section 80P [2] of the Act, on the facts and circumstances of the case.

4. The learned Commissioner of Income-tax [Appeals] is not justified in not allowing the appeal of the appellant since the issue that arose from the impugned order of assessment passed by the learned assessing officer was that whether the appellant is a co-operative society or co-operative bank, wherein the learned Commissioner of Income-tax [Appeals] has held that the appellant is a co-operative society and having held so the learned Commissioner of Income-tax [Appeals] ought to have allowed the appeal of the appellant and the learned Commissioner of Income-tax [Appeals] traveled beyond the issues and thereby dismissed the appeal of the appellant, which is not in accordance with law, on the facts and circumstances of the case.

5. Without prejudice, the learned Commissioner of Income-tax [Appeals] and the learned assessing officer failed to appreciate that the interest income earned from investment in Banks and Co-operative banks were attributable to the business of the appellant, since the funds belonged to the members of the appellant and eligible to claim deduction under section 80P[2] [a] [i] of the Act, and further the interest earned from Statutory Deposits kept with the banks are eligible for deduction under section 80P[2][a][i] of the Act, on the facts and circumstances of the case.

6. Without prejudice, the learned Commissioner of Income-tax [Appeals] and the learned assessing officer were not justified in not allowing the deduction on account of interest earned by the appellant from deposits in Co-Operative Banks, which is a co-operative society under the provisions of section 80P[2][d] of the

Act and erroneously treated such interest income as income from other sources and brought the entire amount to tax, which is not in accordance with law, on the facts and circumstances of the case.

7. Without prejudice, the learned Commissioner of Income-tax [Appeals] and the learned assessing officer were not justified in not allowing the cost of funds under section 57 [iii] of the Act, on the deposits which were maintained to earn interest, while treating the interest earned as income from other sources, on the facts and circumstances of the case.

8. Without prejudice, to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies itself liable to be charged to interest under section 234B & 234 C of the Income Tax Act on the facts and circumstances of the case. The appellant contends that the levy of interest under section 234 B & 234 C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.

9. The appellant craves leave to add, alter, amend, substitute or delete any or all of the grounds of appeal urged above.

10. For the above and other grounds to be urged during the course of hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.”

2. The brief facts of the case are that the assessee is a cooperative society and filed its return declaring Nil income on 26.9.2012 and claimed deduction u/s. 80P(2)(a)(i) of the Act of Rs.67,80,387. The case was selected for scrutiny and statutory notices issued to the assessee. In response to notice, assessee filed details as called for. The AO noted that the assessee has not satisfied the primary requirement for claim of deduction u/s. 80P(2)(a)(i) and it falls within the provision of section 80P(4) r.w.s. 2(24) of the Act. The assessee was held to be a

primary cooperative bank and not eligible for deduction. Accordingly the amount of Rs.67,80,387 was added back to total income of assessee. The CIT(Appeals) upheld the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

3. The ld. AR reiterated the submissions made before the lower authorities and submitted that assessee is engaged in providing credit facilities to its members. The primary object of assessee is to receive deposits from its members and meet financial requirements of its members and to provide credit facilities to its members as per byelaws of society. The members of the society are employees of BSNL. The appellant is accepting deposits from BSNL employees and extend credit to needed members of the society. The assessee is not accepting deposits from public nor extending credit facilities to public and is not connected in banking business. The appellant keeps deposits with Karnataka Central Cooperative Bank Ltd. (KCC Bank) to comply with statutory requirements laid out by State Govt. and earns interest income which is business income of the appellant. The ld. AR relied on the judgment of coordinate Bench of Tribunal in the case of Alnavar Credit Souharda Co-op Ltd. vs ITO in ITA No.738/Bang/2024 dated 28.6.2024.

4. The ld. DR relied on the order of the lower authorities.

5. Considering the rival submissions we noted that the revenue authorities have not granted the benefit of deduction claimed under Chapter VI-A u/s 80P(2) of the Income Tax Act on interest received

from its deposits with Co-operative Banks holding that the provisions of section 80P(4) r.w.s. 2(24) of the Act after analyzing in details of the case. We noted that the assessee is registered under the Karnataka Co-operative Society Act. 1959 and formed by the BSNL Employees' for the benefit of the BSNL Employees'. As per the submissions of the Id. AR that the assessee is accepting deposit only who are members and extending credit facility to its members. It has no saving bank deposit or current account deposit facilities nor cheques and demand draft facilities. The assessee is not involved in banking activity and does not come under the definition of Bank as per RBI and it has not obtained any licence for RBI for functioning of bank. The assessee is eligible for deduction under chapter VI-A u/s 80P(2) of the Act. During the course of hearing the Id. AR of the assessee has relied on the judgment of the coordinate bench noted supra . Considering the judgment of Alnavar Credit Souharda Co-op Ltd noted above the AO is directed to decide the issue afresh regarding the claim of deduction made by the assessee.

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

Pronounced in the open court on this 21<sup>st</sup> day of August, 2024.

Sd/-  
( KESHAV DUBEY )  
JUDICIAL MEMBER

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 21<sup>st</sup> August, 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.