

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1157/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2018-19

M/s.Villupuram District Police- Department Staff Co-operative- Thrift & Credit Society Ltd., District Police Office Campus, Villupuram-605 602.	v.	The ITO, Ward-1, Villupuram.
[PAN: AAAAV 3592 P]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. Reddy Prakash, CA
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anita, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	31.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	21.08.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee Credit society against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 22.02.2024 for the Assessment Year (hereinafter in short 'AY') 2018-19.



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**2.** The main grievance of the assessee is against action of the Ld.CIT(A) confirming the disallowance of deduction claimed u/s.80P(2)(d) of the Income Tax Act, 1961 (hereinafter in short 'the Act') amounting to Rs.21,40,725/- made by the AO.

**3.** The brief facts are that the assessee is a Thrift & Credit Society engaged in the business of providing credit facilities to its members. For AY 2018-19, it filed the return of income offering gross total income of Rs.1,32,14,108/- and claimed deduction of Rs.1,32,14,108/- u/s.80P of the Act, thus, total income returned was **nil**. Later, the return was selected for limited scrutiny and the AO noted that the assessee had earned interest income of Rs.2,64,54,383/- and the breakup of the interest income was as under:

Name of The Bank / Society Paying/ Crediting Interest to you	Total Amount of Deposits With The Bank/Society in Col(1).	Total Interest Earned by you / Credited to you by the Bank/Society in Col(1) During The F.Y. relevant to A.Y 18-19
Members	18,84,72,879/-	2,43,13,658/-
VDDC Bank	2,34,42,368/-	21,40,725/-
<b>TOTAL</b>		<b>2,64,54,383/-</b>

**4.** The AO allowed the claim of deduction of Rs.2,43,13,658/- u/s.80P(2)(a)(i) of the Act. However, denied deduction claimed u/s.80P(2)(d) to the tune of Rs.21,40,725/- on the ground that deduction is not allowable for interest from the Co-operative Banks for all purposes



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and therefore, interest earned from the investment in the VDDC Bank was disallowed.

**5.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who confirmed the action of the AO.

**6.** Aggrieved, the assessee is in appeal before this Tribunal.

**7.** We have heard both the parties and perused the material available on record. Since there is no dispute of the above stated facts, same are not repeated for the sake of brevity. The AO has denied deduction claimed by the assessee credit society only in respect of interest income from his investment made with VDDC Bank to the tune of Rs.21,40,725/-. According to the AO, since sec.80P is not applicable to Co-operative Banks for all purposes, wherever the word "Co-operative Society" is used in sec.80P, it will not be applicable for Co-operative Banks. Therefore, he held that the interest income derived from the investment/deposit in Co-operative Banks was not eligible for deduction u/s80P of the Act, which was confirmed by Ld CIT(A). However, we don't concur with the impugned action of the Ld.CIT(A) *per-se* for the reason that assessee has derived this interest income from VDDC Bank which according to it is a Co-operative Society engaged in the business of banking. It is noted that before the Ld.CIT(A) the assessee's 3<sup>rd</sup> ground of appeal was "the AO is



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not justified in disallowing the deduction of Rs.21,40,725/-relates to interest received from Central Co-operative Bank, which is also a Co-operative Society and asserted as such under the Act", which implies that assessee's main contention was that VDCC Bank was a Central Co-operative Bank, which is also a Co-operative Society and therefore, the interest income derived from the investment/deposit made in such a Co-operative Society/Bank qualifies for deduction u/s.80P(2)(d) of the Act. At this juncture, it would be gainful to reproduce relevant provisions of sec.80P for adjudicating the issue in hand i.e. whether the interest income derived from deposit/investment by assessee Co-operative Society from Central Co-operative Bank (VDDC Bank) which is a Co-operative Society is allowable deduction u/s.80P(2)(d) of the Act. Relevant provisions of sec.80P reads as under:

#### Deduction in respect of income of co-operative societies.

**80P.**(1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2)The sums referred to in sub-section (1) shall be the following, namely:-

(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

[(4) The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation - For the purposes of this sub-section,-



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(a) "co-operative bank" and "primary agricultural credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(b) primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.]

**8.** According to the assessee/Co-operative Credit Society, it has received interest from Co-operative Society/Central Co-operative Bank (VDDC Bank) which is basically a Co-operative Society; therefore, interest derived by assessee from another Co-operative Society, which in this case a Co-operative Society/Bank is eligible u/s.80P(2)(d) of the Act; And we are of the opinion that deduction u/s.80P(2)(d) of the Act is allowable provided assessee derives income by way of interest derived from Co-operative Society. Coming to the present case, the deduction is allowable u/s.80P(2)(d) of the Act, if the assessee has derived interest of Rs.21,40,725/- from deposit/investment made in VDDC Bank, if it is a Co-operative Society. And since we don't find any finding of fact given by the Ld.CIT(A) even though Ground No.3 as noted (supra) was raised before him i.e. as to whether the VDDC Bank is a Central/Tamil Nadu Co-operative Society, we are unable to adjudicate as to whether assessee is eligible for deduction, u/s.80P(2)(d) of the Act. Before this Tribunal also assessee didn't file any documents to prove the VDDC Bank was a Co-operative Society.



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**9.** Having said so, we make it clear that unless the Ld.CIT(A)/AO could show that the Co-operative Bank (from whom assessee earned interest on its deposits i.e. in this case VDDC Bank) possess a license from the RBI to do banking business with the public and is not a Co-operative Society, deduction u/s.80P(2)(d) of the Act, can't be denied; and for such a proposition, we rely on the decision of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. & Others v. CIT reported in [2021] 431 ITR 1 (SC); Therefore, if it is not the case of the Ld.CIT(A)/AO that the Co-operative Societies/Bank from whom the assessee has derived interest had possessed license from RBI to do banking business, the action of the AO can't be countenanced. Therefore, we hold that unless the assessee earns interest income from a Bank which possess RBI license, the assessee cannot be denied the deduction u/s.80P of the Act, which is a benevolent provision enacted by the Parliament to encourage and promote the cooperative sector in general and therefore, must be read liberally and reasonably; and if there is ambiguity in favour of the assessee. A deduction that is given without any reference to any restriction, or limitation cannot be restricted or limited by implication. Therefore, we set-aside, the impugned order of Ld CIT(A), and remand the issue back to the file of the AO for limited verification as to whether the VDDC Bank is in possession of RBI license to do banking



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business with the public; and if it is found that it doesn't possess such a banking license from RBI and is a Co-operative Society, then assessee to be allowed deduction u/s.80P(2)(d) of the Act to the tune of Rs.21,40,725/- or if it is found that VDDC Bank possess RBI license to do banking business with the public and is not a Co-operative Society, then to confirm the disallowance after hearing the assessee.

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

Order pronounced on the 21<sup>st</sup> day of August, 2024, in Chennai.

**Sd/-**  
(मनोज कुमार अग्रवाल)  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 21<sup>st</sup> August, 2024.  
**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित /Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF