

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**Before Shri Satbeer Singh Godara, Judicial Member &
Shri Amarjit Singh, Accountant Member**

ITA No.837/Coch/2023 : Asst.Year 2011-2012
&
SA No.188/Coch/2023

ITA No.838/Coch/2023 : Asst.Year 2012-2013
&
SA No.189/Coch/2023

ITA No.839/Coch/2023 : Asst.Year 2016-2017
&
SA No.190/Coch/2023

ITA No.840/Coch/2023 : Asst.Year 2017-2018
&
SA No.191/Coch/2023

Karakulam Service Co-operative Bank Limited, KP-1/382 Karakulam PO, Nedumangad Trivandrum – 695 564. PAN : AAAAT7698C.	v.	The Income Tax Officer Ward – 2(3) Trivandrum.
(Appellant/Applicant)		(Respondent)

Appellant by : Sri.Suresh Kumar, CA
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 14.08.2024	Date of Pronouncement : 14.08.2024
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ORDER

Per Bench :

These assessee's four appeals ITA Nos.837 to 840/Coch/2023 (alongwith its as many stay applications SA Nos.188-191/Coch/2023 therein) , arise against the

CIT(A)/NFAC, as many DIN & Order Nos.ITBA/NFAC/S/250/2023-24/1055497733(1) (for asst.year 2011-2012), ITBA/NFAC/S/250/2023-24/1055498115(1) (for asst.year 2012-2013), ITBA/NFAC/S/ 250/2023-24/1055493032(1) (for asst.year 2016-2017) & ITBA/NFAC/S/250/2023-24/1055492651(1) (for asst.year 2017-2018), all dated 28.08.2023, in proceedings u/s.143(3) r.w.s. 147 / 143(3) of the Income-tax Act, 1961; in short “the Act” hereinafter, assessment year-wise, respectively.

Heard both the parties at length. Case files perused.

2. It emerges at the outset that the assessee’s appeals ITA Nos.837/Coch/2023, 838/Coch/2023 & 840/Coch/2023 for assessment years 2011-2012, 2012-2013 and 2017-2018 raise its identical sole substantive ground claiming sec.80P deduction claim involving various interest income from deposits made in co-operative banks disallowed in both the lower proceedings. Learned CIT-DR vehemently argued that in the light of Totagar’s Co-operative Sale Society Ltd. v. ITO reported in (2010) 322 ITR 283 (SC) and Pr.CIT & Anr. v. Totagars Co-operative Sale Society reported in (2017) 395 ITR 611 (Kar.), such an interest income has to be treated as income from “other” sources only. We note that the hon’ble jurisdictional high court in Pr.CIT v. Peroorkada SCB Ltd. [2022] 442 ITR 141 (Ker) has already decided the instant issue in assessee’s favour and against the Revenue, as under:-

“12.2 Section 80P deals with Co-operative Societies' computation of income. As already noted, it has four sections and several sub-sections and clauses. The Parliament has considered the various situations in which the exigible income and the deductible income of the assessee is considered while computing the income of the assessee. For getting deduction, in our considered view, the assessee must also establish that the interest income earned by the assessee is from a Co-operative Society. As a matter of fact, in the case on hand, there is no dispute that it is not from a Co-operative Society registered under Kerala Co-operative Societies Act. The interest income earned from District Co-operative Bank/State Co-operative Bank, in the facts and circumstances of the case, do come within Section 80P(2)(d). Therefore, the income constitutes income from other sources and the only eligible deduction is covered by Section 80P(2)(d) viz. Interest or dividend derived by the assessee from its investments with any other Co-operative Society. The source of interest income is from Bank and Treasury, interest income received from Treasury be included in the computation of total income of the assessee. In other words, interest earned from Treasury is inadmissible for deduction and interest income from Co-operative Societies registered under the Kerala Co-operative Societies Act are eligible for deduction. The contra consideration of Commissioner of Income Tax (Appeals) and the Tribunal is incorrect and liable to be modified as stated above. Hence, it is held that the interest income earned by the assessee does not come within the ambit of Section 80P(2)(a)(i) and permissible deduction of interest income is limited to Co-operative Societies/Banks registered under Kerala Co-operative Societies Act under clause (d) of the Act and effect order on the above lines is made by the Assessing Officer. The questions are accordingly answered.”

3. We adopt the foregoing detailed discussion mutatis mutandis to accept the assessee's instant identical sole substantive ground of sec.80P deduction. Necessary computation shall follow as per law in very terms. Its three

appeals ITA No.837/Coch/2023, 838/Coch/2023 & 840/Coch/2023 are allowed.

4. Next comes ITA No.839/Coch/2023 for assessment year 2016-2017 wherein the assessee's first substantive ground is found to be claiming 80P deduction only, which is accepted in light of the foregoing discussion since involving the very nature of interest income. Learned CIT-DR at this stage submits that the assessee's instant remaining appeal also raises the latter issue of correctness of both lower authorities action making sec.68 addition of unexplained cash credit in its bank account(s). Learned counsel contends that all these cash deposits in fact pertain to the assessee's members only which has been credited in the respective account holders name. No KYC documents appear to have been factually verified to this effect in lower proceedings. Faced with this situation, we deem it appropriate to restore the assessee's instant latter substantive ground back to the Assessing Officer for his afresh adjudication subject to the rider that the assessee itself shall plead and prove its case within three effective opportunities only; at its own risk and responsibility, in consequential proceedings. Therefore this appeal ITA No.839/Coch/2023 is partly allowed.

5. Delay of 39 days in filing in all these appeals before the tribunal is condoned as per assessee's condonation averments.

6. The assessee's three appeals ITA No.837/Coch/2023, 838/Coch/2023 and 840/Coch/2023 are allowed and ITA No.839/Coch/2023 is partly allowed and the corresponding four stay applications Nos.188/Coch/2023, 189/Coch/2023, 190/Coch/2023 and 191/Coch/2023 are dismissed as rendered infructuous. A copy of the common order be placed in the respective case files.

Order pronounced in the open court on this 14th Day of August, 2024.

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Cochin ; Dated : 14th August, 2024.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Concerned.
4. The CIT Concerned.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst.Registrar/ITAT, Cochin