

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH : COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

I.T.A.No.666/COCH./2023  
ALONG WITH  
S.A.No.149/COCH./2023 - Assessment Year 2020-2021

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|--|-----|--|
| The Tattamangalam Service<br>Co-operative Bank Limited,<br>P-502, Tattamangalam,<br>PALAKKAD – 678 012.<br>PAN AAAAT4213D<br>KERALA. | vs. | The Income Tax Officer,<br>Ward – 2,<br>PALAKKAD.<br>KERALA. |
| (Appellant)  |     | (Respondent)   |

|                |                             |
|----------------|-----------------------------|
| For Assessee : | -None-                      |
| For Revenue :  | Smt. V. Swarnalatha, Sr. DR |

|                         |            |
|-------------------------|------------|
| Date of Hearing :       | 20.08.2024 |
| Date of Pronouncement : | 25.09.2024 |

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal, for assessment year 2020-2021, arise against the CIT(A)-National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1054502727(1), dated 21.07.2023, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *The order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, in so far as it is prejudicial to the assessee is opposed to law, facts and circumstances of the case.*
2. *It is submitted that the appellant collects the respective share of the Provident Fund due from the employees and deposits the same along with the appellant's share in the PF Account of Employees maintained by the appellant with Kerala Bank, Palakkad, a scheduled bank. The interest earned amounting to Rs.6,51,923/- from such deposits is credited to the Profit and Loss Account for the period 2019-20 and has suffered Tax.*
3. *The interest so earned is paid back to the employees to their respective bank accounts as the interest amount relates to the Interest in Provident Fund and the same is debited to the Profit and Loss Account. It is submitted that the bank acts as*

*a trustee of employees with respect to the PF deposits. Any income derived from the same is to be paid to the employees. Hence the observation of the AO that the assessee has failed to comply the matching concept is totally wrong and unsustainable. In fact the method followed by the appellant is perfectly in accordance with the matching concept of accounting. The learned AO failed to appreciate the facts and circumstances of the case while bringing the sums to tax. It is submitted that the addition be deleted in toto.*

*4. For these amongst other grounds that may permitted to be raised and evidences adduced at the time of hearing it is prayed that the justice be done to the appellant by quashing or modifying the impugned order of assessment.”*

3. Learned DR invited our attention to the CIT(A)-NFAC's lower appellate discussion upholding assessment findings making the impugned disallowance as under :

*Decision*

*“7. I have carefully examined the submission of the appellant as reproduced in the preceding paragraph and the facts emanating from the A.O's order, wherein addition has*

*been made. The brief facts of the case are that the assessee filed the return of income on 29.10.2021 at Nil income by claiming a deduction u/s.80P of Rs.4,84,76,854/-. During the course of assessment proceedings, it was noted that an expense of Rs.7,75,676/- was claimed in the Profit & Loss account on account of interest paid towards provident fund which was not related to the business of assessee. It is submitted by the assessee both during assessment as well as appeal proceedings that they collect their respective share of provident funds and deposits the same in the PF Account of employee's. The interest earned thereon is duly credited to the Profit and loss account and when the interest is paid back to the employees, the same is debited to the profit and loss account. The claim of the appellant suffers infirmities in the sense that there is no such interest income found credited in the profit and loss account and in fact the amount under the head "Interest on staff provident fund" is shown as Nil. Precisely because of this reason the claim of the appellant was rejected by the AO and the expense claimed of Rs.7,75,676/- was disallowed and added back to the income of the assessee. As can be seen, during the course of appeal*

*proceedings the appellant has merely reiterated his submissions made before the AO, without any cogent supporting evidence. Accordingly, I see no reasons to interfere with the findings of the AO and the appeal is dismissed.”*

4. It emerges from perusal of case file and as per the assessee's statement of facts filed before the learned CIT(A)-NFAC that it has been already held entitled for sec.80P(2)(a)(i) deduction to the tune of Rs.4,84,76,854/-. That being the clinching case, we are of the considered view that the CBDT's landmark Circular no.36/16 has settled the issue in assessee's favour and against the department that such disallowance(s) under business expenditure head only enhances the profit eligible for sec.80P deduction and therefore, not sustainable in law. Faced with this situation, we accordingly restore the assessee's instant sole substantive ground back to the Assessing Officer for his afresh computation in light of the foregoing CBDT's circular as per law.

5. This assessee's appeal ITA.No.666/Coch./2023 is allowed and stay application S.A.No.149/Coch./2023 has become infructuous. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 25.09.2024.

Sd/-  
[AMARJIT SINGH]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Cochin, Dated 25<sup>th</sup> September, 2024

VBP/-

Copy to

|    |                                      |
|----|--------------------------------------|
| 1. | The appellant                        |
| 2. | The respondent                       |
| 3. | The CIT(A) concerned.                |
| 4. | The CIT concerned                    |
| 5. | The D.R. ITAT, Cochin Bench, Cochin. |
| 6. | Guard File.                          |

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,  
Cochin