

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1439/Bang/2024
Assessment Year : 2018-19

M/s. Mangala Credit Co-operative Society Ltd., 1 st Floor, Plama Centre, Kapikad Road, Bejai, Mangaluru D.K. District PAN: AACAM8375P	Vs.	The Income Tax Officer, Ward – 1 & TPS, Mangaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Mahesh R. Uppin, Advocate
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Dept.

Date of Hearing	:	10-09-2024
Date of Pronouncement	:	10-10-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 27/02/2024 in respect of A.Y. 2018-19 in which the interest claim made by the assessee was disallowed.

2. The brief facts of the case are that the assessee is a co-operative society registered under the provisions of the Karnataka Co-operative Societies Act. During the assessment year 2018-19, they have returned an income of Rs. 64,480/- and claimed the interest income received as deduction u/s. 80P(2)(a)(i) of the act. The assessing officer after considering

the reply as well as the judgments, had disallowed the deduction claimed by the assessee. The assessee challenged the said order of the AO before the CIT(A) and raised six grounds and contended that the interest income is eligible for deduction u/s. 80P(2)(a)(i) of the act. The Ld.CIT(A) had dismissed the ground no. 1 which relates to the interest of Rs. 13,85,295/- earned by the appellant from its investment with the co-operative banks as not attributable to the business of providing credit facilities to its members as envisaged u/s. 80P(2)(a) of the act. In respect of the other grounds, the Ld.CIT(A) had allowed the appeal.

3. As against the said order of the Ld.CIT(A), the assessee is in appeal before this Tribunal by raising the following concise grounds of appeal:

“1. Was C.I.T. (A) justified in sustaining the addition for Interest on Investment income of Rs. 13,85,295/- made by the Respondent (which also included S.B. interest from co-op. society Rs. 3,33,555/-) derived by the appellant holding the said interest as derived from Co-operative Banks and consequently chargeable u/s. 56 of the Act.

2. Whether or not the interest on investments from Co-operative Banks of Rs. 9,78,882/- (SCDCC Bank Rs. 4,91,115 + Bharath Co-op. Bank Rs. 4,87,767) that accrued to the appellant from its mandatory maintenance of fluid resources as required under its governing statute qualify for deduction u/s. 8P(2)(d) of the Act.

3. Both the below authorities erred in not allowing deduction of Rs. 3,33,555/- in respect of S.B. interest of Rs. 3,33,555/- derived from Co-op. Society u/s. 80P(2)(d) of the Act.

4. Without prejudice, the appellate authority failed to allow deduction u/s. 57(iii) of the Act for cost of funds used for investment in Term Deposits while holding the said income as chargeable to tax u/s. 56 of the Act.

5. Both the authorities below passed the impugned Orders contrary to established principles laid down by the Hon'ble Supreme Court and jurisdictional High Court.”

4. At the time of hearing, the Ld.AR submitted that the interest income of Rs. 13,85,295/- comprises the interest obtained from the following banks.

- SCDCC Bank Reserve Fund — Rs. 1,65,608/-.
- AXIS Bank Mutual Fund-69,858/-
- Bharat Co-op. Bank-1,82,983/-
- Bharat Bank Ltd.-3,04,784/-
- SCDCC Bank-27,312/-
- SB interest of SCDCC Bank-2,74,350/-
- Dividend from SCDCC-23,845/-
- SB interest of Co-op. Society-3,33,555/-

5. The Ld.AR contended that the interest income earned from the SCDCC bank of Rs. 4,91,115/- and from Bharat Co-operative Bank of Rs. 4,87,767/- were out of compulsion by the statute and therefore they are entitled for deduction u/s. 80P(2)(d) of the act. The Ld.AR further contended that the interest income of Rs. 3,33,555/- was received from a co-operative society and therefore they are entitled for deduction u/s. 80P of the act. The Ld.AR also relied on the order of the Tribunal in ITA No. 93/Bang/2024 dated 10/06/2024 and prayed to allow the appeal.

The Ld.DR submitted that the order of the AO is correct and relied on the order of this Tribunal in ITA No. 597/Bang/2024 dated 23/07/2024.

6. We have heard the arguments of both sides and perused the materials available on record.

7. As seen from the assessment order, the assessee had received a total interest income of Rs. 13,85,295/- from SCDCC Bank, Axis Bank Mutual Fund, Bharat Co-operative Bank, Bharat Bank Ltd., SB interest from SCDCC Bank, Dividend from SCDCC and SB interest from Co-operative society. From the above list of banks, we find that the SB interest of Rs. 3,33,555/- was received from the co-operative society, hence the same is entitled for deduction u/s. 80P(2)(a)(i) of the act.

8. We have also considered the other contention of the Ld.AR that the interest income received from SCDCC Bank and the Bharat Co-operative

Bank are out of compulsion and it is mandatory for them to deposit the said amounts in the co-operative banks in order to maintain the fluid resources. The AO as well as the Id CIT(A) had no occasion to consider the above plea. In order to verify the contention made by the Ld.AR, we are remitting this portion to the AO to verify whether the deposits were made by the assessee out of compulsion as required under the Statute and if the AO found that it is out of compulsion, the same is entitled for deduction u/s. 80P(2)(a)(i) of the act.

In view of the above direction directing the AO to verify whether the deposits are made out of compulsion or not, the Tribunal order relied on by the Ld.DR which is on different facts we have not considered the same.

9. We also made it clear that if the deposits made with the above cooperative banks are not made out of compulsion, then the said interest income should be treated as income from other sources and should be subjected to tax u/s. 56 of the act by granting the deduction for cost of funds, etc. In respect of the balance interest of Rs. 72,858/-, we do not find that there is any merit in the contention of the Ld.AR and therefore we upheld the order of the lower authorities.

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

Order pronounced in the open court on 10th October, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 10th October, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore