

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

Before Shri Satbeer Singh Godara, Judicial Member and
Shri Amarjit Singh, Accountant Member

**ITA No. 306/Coch/2023 &
CO No. 03/Coch/2023**
(Assessment Year: 2016-17)

The Income Tax Officer- 2(1) 1st Floor, Aayakar Bhavan Kowdiar Thiruvananthuparam 695003	vs.	Peroorkada Service Co-op. Bank Ltd. Peroorkada P.O. Thiruvananthapuram 695005 [PAN: AAAAP3974]
(Appellant)		(Respondent/Cross Objector)

Assessee by:	Shri C.A. Jojo, Advocate
Revenue by:	Shri Sanjit Kumar Das, CIT-DR

Date of Hearing:	12.08.2024
Date of Pronouncement:	25.09.2024

ORDER

Per Bench

This Revenue's appeal ITA No. 306/Coch/2023 with assessee's cross objection CO No. 3/Coch/2023 for AY 2016-17 arises against the National Faceless Appeal Centre, Delhi [CIT(A)]'s DIN & Order No. ITBA/NFAC/S/250/20232-23/1050071382(1) dated 23.02.2023 in proceedings u/s. 250 of the Income Tax Act, 1961 (the Act).

2. Learned CIT- DR vehemently argued during the course of hearing in Revenue's appeal ITA 306/Coch/2023 that the CIT(A) herein has erred in law on facts in deleting the impugned interest disallowance of Rs. 52,40,40,560/- made by the Assessing Officer in his assessment order dated 24.12.2018, vide following lower appellate discussion: -

“6.5 Ground no. 8 of the appeal is related to disallowance of interest expenses by the AO. It is seen that the assessing officer has disallowed the entire claim of interest expenses, debited to profit and loss account on the grounds that proof of identity of the persons to whom this interest has been paid is not furnished. This conclusion of the assessing officer is inconsistent with the fact that in all the other assessment years, disallowance of interest expenditure has not been made and it is accepted in all those years that such interest is paid to the members of the society on their deposits with the society. This accepted and consistent position cannot be changed in one assessment year when in the earlier and succeeding assessment years, the interest expense has been allowed as being interest paid to the members on their deposits. Accordingly, the addition made is directed to be deleted. Accordingly ground no. 8 of the appeal is Allowed.”

Shri Das submits in this factual backdrop that the assessee had made interest payments to non-members as well which stood disallowed in assessment order.

3. We find that there is no such material either in the assessment order as well as in the appeal which could slightly indicate that the assessee has paid interest to non-members. We reiterate that this assessee is a cooperative institution carrying out its regular business activities with its members only. That being the case and in light of the fact that the CITA has already held that no such disallowance has been made in the preceding assessment years, we find no substance in Revenue's instant sole substantive grievance as well as the appeal ITA No. 306/Coch/2023. We further wish to make it clear that this assessee has been held eligible to section 80P deduction, therefore, any disallowance made under regular business head increases its income eligible for deduction going by the CBDT Circular No. 37/16. This Revenue's appeal ITA No. 306/Coch/2023 fails therefore.

4. The assessee's cross objection No. 3/Coch/2023 is found to be supportive of the CIT(A)'s findings deleting the interest expenses and the same stands rendered infructuous in light of above findings in the Revenue appeal hereinabove.

6. This Revenue appeal ITA No. 306/Coch/2023 is dismissed and the assessee's Cross Objection(s) CO No. 3/Coch/2023 is dismissed as rendered infructuous in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 25th September, 2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin, Dated: 25th September, 2024.

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar/ ITAT, Cochin