

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

Before Shri Waseem Ahmed, Accountant Member and
Shri Soundararajan K., Judicial Member

ITA Nos. 609& 610/Coch/2024
(Assessment Years: 2016-17& 2017-18)

Pullur Service Co-op. Bank Ltd. Pullur, Thrissur 680683 [PAN: AABAP6391H]	vs.	Income Tax Officer Ward - 2(4), Thrissur
(Appellant)		(Respondent)

Appellant by:	Shri Ramdas, CA
Respondent by:	Smt. Girly Albert, Sr. D.R.

Date of Hearing:	01.10.2024
Date of Pronouncement:	21.10.2024

ORDER

Per Bench

These appeals filed by the assessee are directed against the orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 29.04.2024 & 02.05.2024 for Assessment Years (AY) 2016-17& 2017-18, respectively. Since identical issue is involved, these appeals are heard together and disposed of by the common order for the sake of convenience and brevity.

2. The only issue raised by the assessee is that the learned CIT(A) erred in confirming the order of the AO by denying the deduction of Rs.1,48,20,552/- under the provisions of section 80P(2)(a)(i) of the Income Tax Act, 1961 (the Act).

3. In the present case the deduction claimed by the assessee for Rs. 1,48,20,552/- under the provisions of section 80P(2)(a)(i) of the Act was denied by the AO which was subsequently confirmed by the learned CIT(A).

Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

4. The learned A.R. before us submitted that the assessee is a primary agricultural credit society which is evident from the certificate issued by the competent authority and accordingly the assessee is eligible for deduction u/s 80P(2)(a)(i) of the Act by virtue of the judgement of the Hon'ble Supreme Court in the case *Mavilayi Service Co-operative Bank Ltd. v. CIT* [2021] 431 ITR 1 (SC).

5. The learned A.R. further prayed to restore the issue to the file of the AO for fresh adjudication in the light of the judgement in the case *Mavilayi Service Co-operative Bank Ltd.* (supra).

6. On the other hand, the learned Sr. DR did not raise any object if the matter is set aside to the file of the AO for fresh adjudication as per the provisions of law.

7. We have heard the rival contentions of both the parties and perused the materials available on record. Recently, the Hon'ble Supreme Court in the case of *Mavilayi Service Co-operative Bank Ltd.* (supra) has held that if the interest income is arising from the members and not only from agricultural operations, the benefit of deduction u/s 80P(2)(a)(i) of the Act cannot be denied. Relevant extract of the judgement of the Hon'ble Supreme Court is extracted as under:

33. Sixthly, what is important to note is that, as has been held in Kerala State Cooperative Marketing Federation Ltd. (supra) the expression "providing credit facilities to its members" does not necessarily mean agricultural credit alone. Section 80P being a beneficial provision must be construed with the object of furthering the co-operative movement generally, and section 80P(2)(a)(i) must be contrasted with section 80P(2)(a)(iii) to (v), which expressly speaks of agriculture. It must also further be contrasted with sub-

clause (b), which speaks only of a "primary" society engaged in supplying milk etc. thereby defining which kind of society is entitled to deduction, unlike the provisions contained in section 80P(2)(a)(i). Also, the proviso to section 80P(2), when it speaks of sub-clauses (vi) and (vii), further restricts the type of society which can avail of the deductions contained in those two sub-clauses, unlike any such restrictive language in section 80P(2)(a)(i). Once it is clear that the co-operative society in question is providing credit facilities to its members, the fact that it is providing credit facilities to non-members does not disentitle the society in question from availing of the deduction. The distinction between eligibility for deduction and attributability of amount of profits and gains to an activity is a real one. Since profits and gains from credit facilities given to non-members cannot be said to be attributable to the activity of providing credit facilities to its members, such amount cannot be deducted.

8. In view of the principles laid down by the Hon'ble Apex Court, we deem it fit to set aside the issue to the file of the AO for fresh adjudication as per the principles laid down by the Hon'ble Apex Court cited above. Hence the ground of appeal of the assessee is hereby allowed for statistical purposes.

9. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 21st October, 2024 under Rule 34 of The Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(Soundararajan K.)
Judicial Member

Sd/-
(Waseem Ahmed)
Accountant Member

Cochin, Dated: 21st October, 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

Assistant Registrar
ITAT, Cochin