

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

Before Shri Inturi Rama Rao, Accountant Member

ITA Nos. 750 to 756/Coch/2024

(Assessment Years: 2010-11 to 2015-16 & 2018-19)

Punukkannoor Service Co-op. Bank Ltd. Society Junction, Perumpuzha Kollam 691504 [PAN: AACAT9318B]	vs.	The Income Tax Officer- 2 2nd Floor, Aayakar Bhavan Near Karbala junction Kollam 691001
(Appellant)		(Respondent)

Appellant by:	Shri Sabu, CA
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	28.10.2024
Date of Pronouncement:	30.10.2024

ORDER

These appeals filed by the assessee are directed against separate orders of the National Faceless Appeal Centre, Delhi [CIT(A)] all dated 26.06.2024 for Assessment Years (AY) 2010-11 to 2015-16 & 2018-19. Since identical issue is involved in all these appeals, they are heard together and disposed off by this common order for the sake of convenience.

2. This is the second round of proceedings before the Tribunal. In the first round the Tribunal remanded the matter to the file of the Assessing Officer (AO) with the following directions: -

“7.2 As regards the interest on the investments with Cooperative Banks and other Banks, the co- ordinate Bench order of the Tribunal in the case of Kizhathadiyoor Service Cooperative Bank Ltel. (in ITA No. 525/Coch/2014 (Order, dt. 20-7-2016)), had held that interest income earned from investments with treasuries and banks in

the course of assessee's business is part of banking activity of the assessee, and therefore, the said interest income was eligible to be assessed as income from business instead of 'income from other sources. However, as regards the grant of deduction under section 80P of the Income Tax Act on such interest income, the assessing officer shall follow the law laid down by the Larger Bench of the Hon'ble jurisdictional High Court in the case of The Mavilayi Service Co-operative Bank Ltd. w CIT(supra) and examine the activities of the assessee-society before granting deduction under section 80P of the Income Tax Act on such interest income.

7.3 As regards the additional grounds are concerned, the Hon'ble Kerala High Court in the case of Kil Kotagiri Tea & Coffee Estates Co. Ltd. v. ITAT (1988) 174 ITR 579 (Ker) :1988 Tax PubDT) 1273 (Ker-HC) had held that when an authority has decided on the basis of a decision of the High Court which is subsequently reversed, there would be a rectifiable mistake coming within the section 154 of the Income Tax Act. The Larger Bench of the Hon'ble Kerala High Court has reversed the dictum laid down by the judgment of the Hon'ble Kerala High Court in the case of Chirakkal Service Co-operative Bank Ltd. (supra) by holding that the activities of the assessee has to be examined to determine whether the assessee is Co-operative society or co-operative bank. In the light of the Larger Bench judgment of the Hon'ble Kerala High Court, the original orders of the Commissioner (Appeals) suffer from mistake apparent on record and the same have been rightly recalled by him by invoking the provisions of section 154 of the Income Tax Act. It is ordered accordingly.”

3. Consequent to the remand order passed by the Tribunal, the AO allowed deduction u/s. 80P of the Income Tax Act, 1961 (the Act). However, denied deduction u/s. 80P(2)(a)(i) of the Act in respect of interest income derived from the Treasury. This issue is no longer res integra, as is covered by the judgement of the hon'ble jurisdictional high court in the case of CIT vs. Sahyadri Co-operative Credit Society Ltd. in ITA No. 63 of 2019, wherein it was held as under: -

“ The question that arises therefore is whether, merely because the assessee chooses to deposit its surplus profit in a permitted bank or financial institution, and earns interest on such deposits, such interest would cease to form part of its profits and gains attributable to its business of providing credit facilities to its members? In our view that question must be answered in the negative, since we cannot accept the contention of the Revenue that the interest earned on those deposits loses its character as profits/gains attributable to the main business of the assessee. It is not as though the assessee in the instant case had used the surplus amount (the profit earned by it] for an investment or activity that was unrelated to its main business, and earned additional income by way of interest or gain through such activity. The assessee had only

deposited the profit earned by it in the manner mandated under Section 63 of the Multi-State Co-operative Societies Act, or permitted by Section 64 of the said Act. In other words, it dealt with the surplus profit in a manner envisaged under the regulatory Statute that regulated, and thereby legitimized, its business of providing credit facilities to its members. Under those circumstances, if the assessee managed to earn some additional income by way of interest on the deposits made, it could only be seen as an enhancement of the profits and gains that it made from its principal activity of providing credit facilities to its members. The nature and character of the principal income [profits earned by the assessee from its lending activity) does not change merely because the assessee acted in a prudent manner by depositing that income in a bank, instead of keeping it in hand. The provisions of the I.T. Act cannot be seen as intended to discourage prudent financial conduct on the part of an assessee.”

4. In the above decision the Hon'ble Kerala High Court adopted the ratio of the decision of Hon'ble Andhra Pradesh High Court in The Vavveru Co-operative Rural Bank Ltd. vs. CCIT [2017] 396 ITR 371 and the decision of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-operative Ltd. vs. ITO (IA No. 307 of 2014) wherein they held that the interest income earned on the deposits made out of surplus fund of the co-operative society qualifies for deduction u/s. 80P(2)(a)(i) of the Act. In the light of the authoritative pronouncement of the Hon'ble Kerala High Court, I am of the considered opinion that the interest income earned on the deposits made with the Treasury out of surplus funds of the assessee also qualified for deduction u/s. 80P(2)(a)(i) of the Act. Accordingly I direct the AO to allow deduction u/s. 80P even in respect of income earned from treasury.

5. In the result, the appeals filed by the assessee are allowed.

Order pronounced in the open court on 30th October, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 30th 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

By Order

Assistant Registrar
ITAT, Cochin