

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

**Before Shri Satbeer Singh Godara, Judicial Member &  
Shri Amarjit Singh, Accountant Member**

ITA No.748/Coch/2023 : Asst. Year 2016-2017  
SA No.170/Coch/2023

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| Pulluvila Fishermen Development Welfare co-operative Society Ltd.<br>FT-28, Pulluvila, Pulluvila PO<br>Trivandrum – 695 526<br><b>PAN : AABAP5397F.</b> | v. | The Income Tax Officer<br>Ward 2(2)<br>Thiruvananthapuram. |
| (Appellant/Applicant)   |    | (Respondent)   |

Appellant/Applicant by : Sri.Harisankar K.Menon  
Respondent by : Smt.V.Swarnalatha, Sr.DR

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| Date of Hearing : 16.08.2024 | Date of Pronouncement : 23.10.2024 |
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**ORDER**

**Per Bench :**

This assessee's appeal in ITA No.748/Coch/2023 (alongwith its stay application SA No.170/Coch/2023 therein) for assessment year 2016-2017 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1055298560(1) dated 22.08.2023 in proceedings u/s.143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

Heard both the parties. Case files perused.

2. It emerges at the outset that both the learned lower authorities have rejected the assessee's sec.80P(2)(a)(vii) deduction claim of Rs.73,19,579/- [applicable in case of a co-operative society engaged in fishing or allied or

specified activity(ies)]. Learned Assessing Officer observed in para-2 page-3 of his assessment order dated 17.12.2018 that hon'ble jurisdictional high court's Full Bench decision in case of PCIT vs. Mavilayi Service Co- Op Bank Ltd., and therefore, he had to keep the instant issue alive. We conclude in these facts that hon'ble jurisdictional high court had decided the same in the department's favour; which in turn, stands reversed in [2021] 123 taxmann.com 161 (SC) against it. That being the case, we accept the assessee's instant first and foremost argument in principle.

3. Learned counsel next submits that the assessee had denied it's interest income from deposits in cooperative banks and hon'ble jurisdictional high court in PCIT v. Peroorkada Service Co-op. Bank Ltd. [2022] 442 ITR 141 (Ker) has rejected the Revenue's identical stand as under: -

*“12.2 Section 80P deals with Co-operative Societies' computation of income. As already noted, it has four sections and several sub-sections and clauses. The Parliament has considered the various situations in which the exigible income and the deductible income of the assessee is considered while computing the income of the assessee. For getting deduction, in our considered view, the assessee must also establish that the interest income earned by the assessee is from a Co-operative Society. As a matter of fact, in the case on hand, there is no dispute that it is not from a Co-operative Society registered under Kerala Co-operative Societies Act. The interest income earned from District Co-operative Bank/State Co-operative Bank, in the facts and circumstances of the case, do come within Section 80P(2)(d). Therefore, the income constitutes income from other sources and the only eligible deduction is covered by Section 80P(2)(d) viz. Interest or dividend derived by the assessee from its investments with any other Co-operative Society. The source of interest income is from Bank and Treasury, interest income received from Treasury be included in the computation of total income of the assessee. In other words, interest earned from Treasury is inadmissible for deduction and interest income from Co-operative Societies registered under the Kerala Co-operative Societies Act are eligible for deduction. The contra consideration of Commissioner of Income Tax (Appeals) and the Tribunal is incorrect and liable to be modified as stated above. Hence, it is held that the interest income earned by the assessee does not come within the ambit of Section 80P(2)(a)(i) and permissible deduction of interest income is limited to Co-operative Societies/Banks registered under Kerala Co-operative Societies Act under clause (d) of the Act and effect order on the above lines is made by the Assessing Officer. The questions are accordingly answered.”*

4. We adopt the above detailed discussion *mutatis mutandis* to accept the assessee's argument in principle and leave it open for the learned Assessing Officer to finalise his consequential computation as per law after verification of all necessary facts. Ordered accordingly.

5. This assessee's appeal ITA No. 748/Coch/2023 is allowed and its stay application SA No. 170/Coch/2023 is dismissed as rendered infructuous in above terms. A copy of the common order be placed in the respective case files.

Order pronounced in the open court on this 23<sup>rd</sup> Day of October, 2024.

**Sd/-**  
**(Amarjit Singh)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Satbeer Singh Godara)**  
**JUDICIAL MEMBER**

Cochin ; Dated : 23<sup>rd</sup> October, 2024  
Devadas G\*

Copy to :

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

Asst. Registrar/ITAT, Cochin