

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

Before Shri Inturi Rama Rao, Accountant Member

ITA No. 484/Coch/2024
(Assessment Year: 2016-17)

Thumpamon Thazham Service Co-operative Bank Thumpamon Thazham P.O. Pathanamthitta 689625 [PAN: AADAT5434H]	vs.	The Income Tax Officer Vaishnav Arcade, M.C. Road Thiruvalla 689101
(Appellant)		(Respondent)

Appellant by:	----- None -----
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	29.10.2024
Date of Pronouncement:	18.11.2024

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 28.08.2023 for Assessment Year (AY) 2016-17.

2. Brief facts of the case are that the assessee is co-operative society engaged in banking and trading activities. The assessee filed its return of income for AY 2016-17 on 19.02.2018 declaring total income at Nil after claiming deduction of Rs. 28,87,381/- u/s. 80P of the Income Tax Act, 1961 (the Act). Against the said return of income assessment was competed u/s. 143(3) of the Act vide order dated 06.12.2018 determining the total income at Rs. 28,87,381 by disallowing the claim of deduction u/s. 80P(2)(i)(a) on interest income.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide the impugned order confirmed the action of the AO.
4. Being aggrieved, assessee is in appeal before the Tribunal. When the appeal was called nobody attended despite due service of notice of hearing. Therefore after hearing the learned Sr. DR, I proceeded to dispose of the appeal as under.
5. The Assessing Officer (AO) denied deduction u/s. 80P(2)(i)(a) of the Act in respect of interest income derived from the District Co-operative Bank. 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.”

6. 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* (ITA 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 District Co-operative Bank also qualifies for deduction u/s. 80P(2) of the Act. Accordingly I direct the AO to allow deduction u/s. 80P even in respect of income earned from District Co-operative Bank.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 18th November, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 18th November, 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