

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

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

ITA No.113/Coch/2024
Asst.Year 2020-21

Mazhuvannoor Service Cooperative Bank Ltd. No.E21, 635, Mazhuvannoor, South Mazhuvannoor P.O., Ernakulam- 686669 Kerala PAN : AABAM 9326M	v.	ITO, Non Corporate Ward-1(1), Ernakulam
(Appellant)		(Respondent)

Appellant by : None

Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 14.08.2024	Date of Pronouncement : 06.11.2024
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ORDER

Per Bench :

This assessee's appeal ITA No.113/Coch/2024 for assessment year 2020-21 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1058876986(1) dated 19.12.2023, in proceedings u/s.250 of the Income-tax Act, 1961; in short "the Act" hereinafter.

Case called twice. None appears at assessee's behest. It is accordingly proceed exparte.

2. The assessee pleads the following substantive grounds in the instant appeal :

"1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to law, facts and circumstances of the case to the extent unfavorable to the appellant and hence not sustainable.

2. The learned Commissioner of Income Tax (Appeals) had considered the "miscellaneous income as income not in connection with the business activities of the appellant without any evidence and analyzing the actual activity.

3. The learned Commissioner of Income Tax (Appeals) had not given any opportunity to the appellant to furnish the details of "miscellaneous income" to prove the same is an integral part of the business activities.

4. The first appellate authority had also failed to call for specific details, if at all the reply to the notice issued u/s 250 was silent regarding miscellaneous income, before concluding that miscellaneous income was not relating to business activities of the appellant society.

5. He had also not considered the fact that the appellant society has no other activity to earn a substantial amount as "miscellaneous income" other than lending of funds to its members.

6. The first appellate authority had not appreciated the fact that the appellant is doing business of providing credit facilities to its members and is earning income from the said activity, deduction u/s.80P(2)(a)(i) should have been allowed at least to the extent of profits from the undisputed business activity after allocating the proportionate expenditure for each income.

7. The learned Commissioner of Income Tax (Appeals) failed to follow the decision of the Honourable Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd & ORS Vs CIT, Calicut & ANR (431 ITR1) which has clearly discussed all the aspects of section 80P and finally concluded that the societies of the appellant's kind are eligible for deduction u/s.80P of the Act for profits from business of banking and extending credit facilities extended to members.

8. *The learned Commissioner of Income Tax (Appeals) had failed to appreciate the fact that the funds invested in Banks/treasury are out of deposits collected from members for which interest is being paid by the appellant. Being a direct expenditure for earning an income, the interest paid to the depositors should have been allowed u/s 57(iii) of the Act. The Honourable High Court of Kerala (jurisdictional High Court) in the case of Peroorkada Service Co-operative Bank Ltd had not considered this aspect in its decision.*

9. *The learned Commissioner of Income Tax (Appeals), NFAC has not considered the principles of matching concept (to allocate expenditure incurred for each income) while sustaining the addition of the gross amount. He had not considered the provisions of section 14A of the Income Tax Act, 1961 in this regard.*

10. *For these and such other grounds that may be urged in subsequent written submissions and at the time of hearing of the appeal, the appeal may kindly be allowed.”*

3. We now advert to the CIT(A)/NFAC's detailed discussion in paragraphs 4 to 8 wherein he has restricted the Assessing Officer's action disallowing the assessee's section 80P(2) deduction of claim of Rs.1,83,43,276/- (involving various heads) only to the extent of Rs.4,04,340/-. Learned departmental representative takes us to para 6.6 in the impugned lower appellate discussion wherein the CIT(A)/NFAC has first upheld the impugned disallowance to the extent of Rs.95,280/- (interest derived from treasury savings) which does not qualify for section 80P relief as per PCIT v. Peroorkada Service Co-op. Bank Ltd. [2022] 442 ITR 141 (Ker) followed by the latter sum of “miscellaneous” income

amounting to Rs.3,09,060/- wherein the taxpayer could not file the corresponding details of the “miscellaneous” income. That being the case, we see no merit in the assessee’s instant sole substantive ground as the CIT(A)/NFAC has already granted sufficient relief except for the foregoing sums, which is not allowable in law. Rejected accordingly.

4. This assessee’s appeal is dismissed in above terms.

Order pronounced in the open court on this 6th day of November, 2024.

Sd/-
(Amarjit Singh)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Cochin ; Dated : 6th November, 2024.
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Copy to :

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

Asst. Registrar/ITAT, Cochin