

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

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

ITA No.239Coch/2024  
Asst.Year 2015-16

M/s. Ponniam Service Cooperative Bank Ltd., Ponniam Service Cooperative Society, Kadirur, Ponniam, Thalassery, Kannur, Kerala - 670641 <b>PAN : AADAP2107P</b>	v.	ITO, Ward-2, Kannur
(Appellant)		(Respondent)

Appellant by : Sri Arun Raj S, Advocate  
Respondent by : Smt.V.Swarnalatha, Sr.DR

<b>Date of Hearing : 14.08.2024</b>	<b>Date of Pronouncement : 07.11. 2024</b>
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**ORDER**

**Per Bench :**

This assessee's appeal in ITA No.239/Coch/2024 for assessment year 2015-16 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/APL/S/250/2023-24/1060785594(1) dated 12.02.2024, in proceedings u/s.250 of the Income-tax Act, 1961; in short "the Act" hereinafter.

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

*"1. The order dated 4-11-2023 passed by the CIT(Appeals), National Faceless Appeal Centre, Delhi to the extend confirming the order dated 26-9-2022 of the National e-Assessment Centre, Delhi*

for the AY 2020-21 and challenged in this appeal is illegal, arbitrary and unjustified.

2. The CIT (Appeals) thoroughly erred in holding that the appellant is not eligible for deduction claimed under section 80P(2)(a)(i)/80P (2)(d) of the Act in respect of the interest/Dividend received on investments with Kannur District Co-operative Bank Ltd.

3. The CIT (Appeals) erred in disallowing the claim of deduction under section 80P of the IT Act in respect of the interest/Dividend received on investments with Kannur District Co-operative Banks holding that the Kannur District Co-operative Bank Ltd is not a Co-operative Society and therefore not eligible for deduction under section 80P(2)(d) of the IT Act.

4. The CIT (Appeals) ought to have held that the appellant is eligible for deduction under section 80P(2) (a)(i) of the IT Act. AND at any rate the appellant is eligible for deduction under section 80P(2) (d) of the Act. The lower authorities failed to consider the matter in the right perspective.

5. The lower authorities ought to have held that the appellant is eligible and entitled for deduction under section 80P(2)(d) on the interest/Dividend received on investments with Kannur District Co-operative Bank, which is a co-operative Society.

6. The lower authorities thoroughly erred in not following the judgment of the jurisdictional High Court in the case of PCIT Vs Peroorkada Service Co- operative Bank Ltd [judgment dated 1-11-2021 passed in ITA 323 of 2019 and connected cases] wherein the High Court of the Kerala in the case of a similar co-op society has categorically held that a co-operative society receiving interest/dividend on investment with a Co-operative bank is eligible and entitled for deduction under section 80P (2) (d) of the Income Tax Act. The above judgment of the jurisdictional High Court was referred to before the CIT (Appeals) and a copy of the certificate evidencing that the Kannur District C-operative Bank Ltd is a co-operative society registered under the Kerala Co-operative Societies Act, 1969 was also submitted before the CIT (Appeals). The CIT (Appeals) failed to consider the same.

7. The CIT (Appeals) ought to have granted deduction for the entire claim under section 80P of IT Act in respect of the interest/Dividend received on investments with Co-operative Banks following the decision of the jurisdictional High Court cited supra.

8. *For these and other grounds to be urged at the time of hearing, it is most respectfully prayed that this Honourable Tribunal may be pleased to set aside the impugned order dated 12-2-2024 for the AY 2015-16 and to allow the appeal.”*

3. Suffice to say, it emerges during the course of hearing that both the learned lower authorities have rejected the assessee's section 80P(2) deduction claimed representing its interest income derived from deposits made in cooperative societies. Learned departmental representative quoted Totagars Co-operative Sales Society Ltd. Vs. ITO (2010) 322 ITR 283 (SC) and PCIT & Anr. v. Totagars Co-operative Sales Society reported in (2017) 395 ITR 611 (Kar.) to buttress the point that such an interest income could not be held in the nature of regular business of income and therefore, the impugned disallowance deserves to be upheld.

4. We notice in this background that the very issue stands adjudicated in hon'ble jurisdictional high court's recent decision in ITA No. 323 of 2019 in the case of 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.”*

5. We adopt the above detailed discussion mutatis mutandis in the case of assessee’s identical submission on section 80P deduction. Necessary computation shall follow as per law in very terms.

6. This assessee’s appeal succeeds in very terms.

Order pronounced in the open court on this 07<sup>th</sup> day of November, 2024.

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

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

Cochin ; Dated : 07<sup>th</sup> November, 2024.  
Satish

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