

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
and
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.834/Coch/2023
ALONG WITH
SA No.187/Coch/2023
Assessment Year - 2017-2018

Vaipur Service Co-operative Bank Limited, No.A-203, III/395, Vaipur, Pathanamthitta – 689 588 PAN AAAAT6880E	v.	The Income Tax Officer Ward - 4 Thiruvalla.
(Appellant/Applicant)		(Respondent)

Appellant/Applicant by : Ms.Anoopa, Advocate
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 16.08.2024	Date of Pronouncement : 05.11.2024
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ORDER

PER BENCH :

This assessee's appeal in ITA No.834/Coch/2023 (along with its stay application SA No.187/Coch/2023 therein) for assessment year 2017-2018 arises out of the order of the Commissioner of Income-tax (Appeals) / NFAC vide DIN & Order No.ITBA/NFAC/S/250/2022-23/1042970919(1) dated 06.05.2022 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. Delay of 516 days in filing the instant appeal is condoned as per assessee's solemn averments in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

3. Coming to the assessee's sole substantive grievance that both the learned lower authorities have erred in law and on facts in disallowing its sec.80P deduction claim amounting to Rs.27,84,724/-; in assessment dated 24.12.2019, as upheld in the CIT(A)-NFAC's lower appellate discussion as under :

"4. Decision : I have carefully considered the facts on record, arguments put forth in the assessment order, the written submissions of the appellant and other documents submitted. The sole issue relates to disallowance of deduction claimed u/s 80P of the Act.

4.1. During the assessment proceedings, it was noted by the A.O. that only 15.98% of total loans outstanding

relates to agricultural purposes and remaining loan given for non-agricultural activities such as education loan, housing loan, vehicle loan, etc Accordingly, the AO held that the appellant has violated the mandate of primary agricultural credit society and not entitled for exemption from applicability of section 80P(4) of the Act.

4.2. The appellant contended that it had extended loan for rural development activity and it has to be considered for the purpose of claiming deduction u/s.80P of the Act. The appellant further contended that section 80P(4) shall not be applicable in its case because it accepts deposits and gives financial accommodation to its members only.

4.3. The assessment order and submission of the appellant have been examined and find that the appellant is a primary agricultural credit co-operative bank and entitled for exemption from the applicability of section 80P(4) of the Act. I am also of the view that any transaction of loan for non-agricultural activities shall not debar the appellant from entitlement of the deduction u/s 80P of the Act, however, the deduction u/s 80P of the Act shall be restricted to the extent of income directly related

to agricultural activities. I am also of the view that the non-agricultural loan in the form of education loan, housing loan, vehicle loan, etc can't be covered under the agricultural activities. As held by the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd Vs CIT [2021] (431 ITR1) that Section 80P being a benevolent provision enacted by Parliament to encourage and promote the credit of the co-operative sector in general must be read liberally and reasonably, and if there is ambiguity, in favour of the assessee.

In the light of the foregoing discussion, I am of the considered view that the appellant is entitled for deduction u/s.80P of the Act in principal. However, the entitlement of deduction shall be limited to the income arising from banking activities relating to credit extended to agricultural activities only. Accordingly, AO is directed to allow the deduction u/s.80P(2)(a)(i) of the Act on the income relating to credit extended for agricultural activities and the disallowed the deduction u/s 80P(2)(a)(i) on credit extended for housing loan, education loan, vehicle loan, etc, which are not related to agricultural activities. Thus,

all grounds of appeal relation to sole issue are partly allowed.

5. In the result, the appeal of the appellant is partly allowed.”

4. Suffice to say, it has come on record that the learned lower appellate authority has given its reasons for rejecting the assessee's impugned deduction claim i.e., it has extended only 15.98% loans in agricultural sector and therefore, all other remaining interest receipts involving various heads, deserves to be excluded.

5. Faced with this limited issue, we are of the considered view that there is no merit in the foregoing sole technical objection raised by the learned CIT(A) once hon'ble apex court's landmark decision in Mavilayi Service Cooperative Bank Ltd., vs. CIT [2021] 431 ITR 1 (SC) has already settled the very issue in assessee's favour and against the department thereby rejecting the latter's endeavour seeking to impose a cap on income eligible for relief u/sec.80P(2)(a)(i) of the Act. Ordered accordingly.

6. This assessee's appeal ITA.No.834/Coch./2023 is allowed and the stay application S.A.No.187/Coch./2023 of the assessee is dismissed as rendered academic. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on this 5th day of November, 2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Cochin ; Dated : 5th November, 2024.

VBP/-

Copy to :

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

Asst.Registrar/ITAT, Cochin