

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

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

ITA.No.424/Coch/2023
Assessment year - 2017-2018

Nedupana Panchayath Residence Welfare Co- operative Society Ltd. Q1520, 996, Muttakkavu Nedumpana PO Kollam – 691 576 PAN : AADAN0457G.	vs.	The Income Tax Officer Ward 5 (now Ward 2) Kollam.
(Appellant)		(Respondent)

Appellant by : --- None---
Respondent by : Smt.V.Swarnalatha, Sr.DR

Date of Hearing : 13.08.2024	Date of Pronouncement : 05.11.2024
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ORDER

PER BENCH :

This assessee's appeal, ITA.No.424/Coch/2023. for assessment year 2017-2018, arises out of the order of the Commissioner of Income-tax (Appeals)/National Faceless Appellate Centre [NFAC], Delhi, Delhi's DIN & Order No.ITBA/NFAC/S/250/2022-23/1051759155(1) dated 31.03.2023, in proceedings u/s. 143(3) of the Income-tax Act, 1961; in short "the Act" hereinafter.

Case called twice. None appears at assessee's behest. It is accordingly proceeded *ex parte* against the assessee.

2. It emerges at the outset that both the learned lower authorities have *inter alia* invoked sec.80P(2) disallowance amounting to Rs.6,16,900/- representing interest income derived from deposits made in cooperative bank(s) and similar institutions; on the ground that such a receipt ought to be treated as income from "other" sources than regular business income. The Revenue's vehement contention accordingly is that the issue already stand settled against the assessee in PCIT & Anr. vs. Totagars Cooperative Sales Society [2017] 395 ITR 611 (Kar.) and The Totagars Cooperative Sales Society vs. ITO [2010] 322 ITR 283 (SC) and therefore, we ought to uphold both the learned lower authorities action.

3. We note in this limited factual backdrop that hon'ble jurisdictional high court's recent decision in PCIT v. Peroorkada Service Co-op. Bank Ltd. [2022] 442 ITR 141 (Ker) has accepted the assessee's very stand reading 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. Faced with this situation, we accept the assessee's instant appeal in principle and leave it open for the learned Assessing Officer to finalise his consequential computation as per law after verification of all the relevant facts. Ordered accordingly.
5. This assessee's appeal is allowed in above terms.

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(A), Concerned.
4. The CIT Concerned.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst.Registrar/ITAT, Cochin