

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.470/Coch/2024 : Asst.Year 2020-2021

Bharananganam Service Co-operative Bank Limited No.4150 Bharananganam P.O. Kottayam – 686 578. PAN : AAAAT8722H.	v.	The Deputy Commissioner of Income-tax Kottayam.
(Appellant)		(Respondent)

Appellant by : Sri.Josekutty Jacob, CA
Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 20.11.2024	Date of Pronouncement : 09.12.2024
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the learned Commissioner of Income-tax (Appeals) dated 21st November, 2024 and relates to the assessment year 2020-2021.

2. The short facts giving rise to the filing of the present appeal are like that the assessee is a society, filed its return of income for the impugned assessment year on 21st November, 2020 claiming deduction u/s.80P(2)(a)(i) amounting to Rs.69,60,346. The return filed by the assessee has been selected for scrutiny. During the course of assessment proceedings, the Assessing Officer (AO) observed that the assessee has earned interest income of Rs.41,59,532 from various co-operative banks and schedule banks. The AO further observed that the assessee is not entitled for deduction

u/s.8P(2)(a)(i) of the Act due to the provisions of sec.80P(4) and hence disallowed the deduction to the assessee.

3. Aggrieved with the order of the AO, the assessee preferred an appeal before the learned CIT(A) and contended that the AO has wrongly interpreted the judgment of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. reported in 431 ITR 1 (SC). The assessee also draw the attention of the ld.CIT(A) towards the judgment of the Hon'ble Kerala High Court in the case of PCIT v. Peroorkada Service Co-operative Bank Ltd.and Vilappil Service Co-operative Bank Ltd. reported in 442 ITR 141 (Ker.) and Hon'ble Andhra Pradesh High Court in the case of The Citizen Co-operative Society Ltd. v. ACIT

4. The learned CIT(A) denied the claim of the assessee u/s.80P(2)(a)(i) vis-à-vis deduction of interest income. However, the ld.CIT(A) allowed the claim of the assessee u/s.80P(2)(d) with respect to the interest earned from co-operative banks and societies. However, the ld.CIT(A) could not grant any deduction with respect to the interest income earned from commercial banks and other financial institutions.

5. Still aggrieved with the order of the CIT(A), the assessee has come up in appeal before us and assailed the order of the ld.CIT(A). The solitary contention of the assessee is that the assessee may be allowed deduction of 80P(2)(a)(i) or sec.80P(2)(d) with respect of income earned from commercial banks and other financial institutions.

6. The learned Departmental Representative relied upon the orders of the authorities below.

7. After considering the rival submissions, we are of the view that the learned CIT(A) has correctly allowed the appeal of the assessee with respect of the interest income earned from co-operative banks and societies. So far as the deduction with respect to interest income earned from commercial banks or other financial institutions are concerned, we are of the view that such income is to be taxed as Income from other sources u/s.57 of the Act and cost of funds attributable to such income is to be allowed to the assessee. Here in this case, it is an admitted fact that the assessee has invested the surplus funds. Therefore the judgment of Hon'ble Jurisdictional High Court in the case of PCIT Vs Shaydari Cooperative Society reported in 301 Taxman 36(Ker) would not come to rescue the assessee. Therefore, the matter is restored to the file of the AO for examining the status of surplus fund as well as the cost of funds and decide the issue in accordance with law.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on this 9th day of December, 2024.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 09th December, 2024.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin