

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.2050/Bang/2024
Assessment Year: 2016-17

Sri Gangadhareshwara Souharda Pattina Sahakari Sangha Ni Gangavathi 1 <sup>st</sup> Floor, CBS Complex Gangavathi Karnataka 583 227  <b>PAN NO : AABAS2552D</b>	<b>Vs.</b>	ITO Ward-1 Koppal
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Deepak G., A.R.
<b>Respondent by</b>	:	Sri Ganesh R Ghale, Standing Counsel for department

<b>Date of Hearing</b>	:	05.12.2024
<b>Date of Pronouncement</b>	:	16.12.2024

**O R D E R**

**PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:**

Present appeal of the assessee is arising from the order of Id. CIT(A) dated 27.8.2024 and relates to assessment year 2014-15 having DIN & Order No.ITBA/APL/S/250/2024-25/1068003345(1).

**2.** Short facts giving rise to the filing of present appeal are like this that the assessee is a Co-operative Society providing credit facilities to its members and earning interest income as well as income from other sources. Case of the assessee was selected for scrutiny. During the course of assessment proceedings, the AO observed that the assessee has earned interest income from its investments made with District Central Co-operative Bank, CBS Co-operative Bank and Suco Bank. The Id. AO took a view that interest

income earned by the assessee from these banks is not entitled for deduction u/s 80P(2)(d) of the Income Tax Act, 1961 (in short "The Act").

**3.** Aggrieved with the order of AO, the assessee preferred an appeal before the ld. CIT(A) and contended that assessee is entitled for the deduction u/s 80P(2)(d) of the Act or alternatively u/s 80P(2)(a)(i) of the Act. The ld. CIT(A) referring to the judgement of Mavilayi Service Co-operative Society reported in 431 ITR 1 and Citizen Co-operative Society and Banking Regulation Act has held that the assessee in the present case is not a member of any of the Co-operative bank from where it has earned interest income and hence, the assessee is not entitled for deduction of section 80P(2)(d) of the Act or alternatively section 80P(2)(a)(i) of the Act.

**4.** Aggrieved with the order of the ld. CIT(A), assessee has come up in appeal and has raised 6 grounds of appeal.

**5.** Ground No.1 is general in nature. In ground Nos.2, 3, 4 & 5, the assessee has contended that the lower authorities have erred in denying the deduction of section 80P(2)(d) of the Act to the assessee. In ground No.5, an alternative claim has been made by the assessee in which it is contended that in case interest income is to be taxed as income from other sources, then cost of this may kindly be allowed to the assessee. The counsel for the assessee has also filed written submissions before us and strongly relied upon the judgement of Hon'ble Karnataka High Court in the case of Tumkur Merchant Souharda Co-operative Society reported in 65 taxmann.com 447. The ld. Counsel for the assessee has relied upon some other judgements also.

6. Ld. D.R. appearing on behalf of the revenue has relied upon the judgement of Hon'ble Jurisdictional High Court in the case of Totgars Society reported in 395 ITR 611 and contended that the case law relied upon by the counsel of the assessee in the case of Tumkur Merchant Souharda Co-operative Society cited (supra) has been no more a good law as declared by the Hon'ble jurisdictional High Court in Totgars Society case 395 ITR 611.

7. In rejoinder, the ld. Counsel for the assessee has filed one recent judgement of the jurisdictional High Court in the case of Lalitamba Pattina Souharda Sahakari Society Vs. ITO and prayed that the matter may be restored to the file of AO for deciding afresh in accordance with observations made by Hon'ble Jurisdictional High Court in the case of Lalitamba Pattina Souharda Sahakari Society cited (supra).

8. We have heard the rival submissions and perused the materials available on record. In this case, the assessee has claimed deduction of section 80P(2)(d) of the Act vis-à-vis interest income earned from 3 co-operative banks as observed by us in Para-2 of the present order. We further observed that in ground No.3(b), the assessee has admitted that it has **earned interest income by placing surplus fund with the co-operative banks**. Interest income earned by a society via deposits made with co-operative bank is no more *res integra* in view of the judgement of Hon'ble jurisdictional High Court in the case of Totgars Society reported in 395 ITR 611. So far as the claim of the assessee u/s 80P(2)(a)(i) of the Act is concerned, we are of the view that assessee is not entitled, since it is an admitted position that the assessee has placed surplus funds with the banks. Therefore, this activity cannot be termed as an activity attributable to the main business of the assessee as held by Hon'ble Apex Court in the case of Totagar Society 322 ITR. Be that as it may,

we are of the view that interest income earned by the assessee is liable to be taxed under the head “income from other sources” and the assessee is entitled for deduction of cost of funds in terms of the judgement of coordinate bench in the case of PACC Vs. ITO 164 taxmann.com 327. Therefore, we restore this matter to the file of AO for deciding afresh in accordance with the observations made by the coordinate bench in the case of Primary Agricultural Credit Co-operative Society (PACC) (supra).

**9.** In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16<sup>th</sup> Dec, 2024

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

**Sd/-**  
**(Prakash Chand Yadav)**  
**Judicial Member**

Bangalore,  
Dated 16<sup>th</sup> Dec, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**