

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 553/Coch/2024
Assessment Year: 2014-15**

Nilambur Service Co-op. Bank Ltd.
Edavanna, Akampadam
Malappuram 679329
[PAN: AABAN8659C]

..... Appellant

Vs.

Asst. Commissioner of Income Tax
Circle - 1, Tirur

..... Respondent

Appellant by: Shri Rishal K., Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 10.12.2024
Date of Pronouncement: 10.12.2024

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 24.04.2024 for Assessment Year (AY) 2014-15.

2. Brief facts of the case are that the assessee is stated to be a co-operative bank. The return of income for AY 2014-15 was filed on 02.10.2014 declaring Nil income after claiming deduction under the provisions of section 80P of the Income Tax Act, 1961 (the Act). Against the said return of income assessment was completed by the ACIT, Circle – 1, Tirur (hereinafter “the AO”) vide order

dated 26.12.2016 passed u/s. 143(3) of the Act at a total income of Rs. 28,57,346/-. While doing so the AO had denied the claim of deduction u/s. 80P of the Act by holding that the assessee had failed to prove that it is a primary agricultural co-operative society.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide the impugned order confirmed the action of the AO.

4. Being aggrieved, the assessee is in appeal before us in the present appeal.

5. It is submitted that the assessee is a co-operative society registered under the Kerala Co-Operative Societies Act, 1969, therefore, the income earned is exempt under the provisions of section 80P of the Act.

6. On the other hand, the learned Sr. DR opposed the above submissions and submitted that the assessee cannot grant deduction u/s. 80P of the Act for the failure of the assessee to prove that it is a primary agricultural co-operative society.

7. Having heard the rival submissions I am of the considered opinion that the matter requires to be restored back to the file of the AO for de novo assessment in accordance with law after affording reasonable opportunity of hearing to the assessee following the ratio of the decision of the Hon'ble Supreme Court in the case of *Mavilayi Service Co-operative Bank Ltd. v. CIT* [2021] 431 ITR 1 (SC).

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 10th December, 2024

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 10th December, 2024

n.p.

Copy to:

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

Assistant Registrar
ITAT, Cochin