

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

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

ITA No.586/Coch/2023 : Asst.Year 2010-2011

Ala Service Co-operative Bank Limited No.R-321 Santhipuram PO.O. Kodungallur Thrissur – 680 668. PAN : AADAA5833H.	v.	The Income Tax Officer Ward 2(1) Thrissur.
(Appellant)		(Respondent)

Appellant by : Sri.C.A.Jojo, Advocate
Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 10.12.2024	Date of Pronouncement : 30.12.2024
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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 13th June, 2023 and it relates to the assessment year 2010-2011.

2. Brief facts of the case are that the assessee is a co-operative bank registered under the Kerala Co-operative Societies Act, 1969. During the relevant previous year, it was engaged in banking business and also in retail trading business. Its area of operation is within the territories of the Sreenarayanapuram village in Thrissur District. For the impugned assessment year, the assessee has not filed its

return of income, but has only filed the return income after issuance of notice u/s.148 of the Income-tax Act, 1961. During the course of reassessment proceedings, the Assessing Officer observed that the assessee has earned interest on fixed deposits and has claimed deduction u/s.80P(2)(d) of the Act in respect of this income. However, the AO disallowed the claim of the assessee u/s.80P(2)(d) and assessed the interest income under the head “income from other sources”(IOS).

3. Aggrieved with the order of the AO, the assessee preferred an appeal before the learned CIT(A) and contended that the assessee is entitled to claim deduction of interest income u/s.80P(2)(d) of the Act. The ld.CIT(A) allowed the appeal of the assessee in part, inasmuch as the ld.CIT(A) has directed the A.O. to allow the deduction of expenses which the assessee might have incurred for earning interest income.

4. Still aggrieved with the order of the ld.CIT(A), the assessee has come up in appeal before us. The learned Counsel for the assessee contended that the claim of the assessee with respect to the interest income shall be allowed in terms of the provisions of sec.80P(2)(d) of the Act.

5. The learned Departmental Representative appearing on behalf of the revenue contended that the assessee is not even entitled for the deduction of interest expenses because the assessee has not filed the return of income in terms of the provisions of sec.139(1) or 139(4) of the Act. The learned DR

pointed out that the assessee has only filed the return of income after issuance of notice u/s.148 of the Act.

6. After considering the rival submissions and perusing the material available on record, we are of the view that the assessee is not entitled for deduction of sec.80P(2)(d) of the Act in view of the judgment of the Hon'ble jurisdictional High Court in the case of Nileshwar Range Kallu Chethu Vyavasaya Thozhilali Sahakarana Sangham v. CIT reported in 459 ITR 730, wherein it has been held that where an assessee could not file the return of income in time, then the deduction of sec.80P is not available. However, we are not withdrawing the benefits of the allow ability of expenses attributable to the interest income for the reason that the Revenue has not come up in appeal or filed any cross objection before us.

7. In the result, the appeal filed by the assessee is dismissed with respect to the issue agitated before us.

Order pronounced on this 30th day of December, 2024.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 30th December, 2024.
Devadas G*

Copy to :

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