

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH: CHENNAI श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखासदस्य के समक्ष BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER		
आयकर अपील सं./ITA No.2238/CHNY/2024 निर्धारण वर्ष/ Assessment Year: 2020-21		
M/s. SM 55 MEDC Executive Employee Co-op Thrift and Credit Society, 19/88-F, Central Office Road, EB Central Office Area, Salem – 636 401.	v.	The Income Tax Officer, Ward 1(6), Salem
[PAN: AARAS 2505A]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Senthil Kumar, Advocate (Through Virtual Mode)
प्रत्यर्थी की ओर से /Respondent by	:	Smt. D. Babitha, JCIT
सुनवाई की तारीख/Date of Hearing	:	23.01.2025
घोषणा की तारीख /Date of Pronouncement	:	26.02.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter 'the Ld.CIT(A)'), Delhi, dated 31.03.2024 for the Assessment Year (hereinafter 'AY') 2020-21.



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2. At the outset, it is noted that there is a delay of 86 days in filing of this appeal. The assessee has filed an affidavit explaining the cause for the delay. After going through the contents of the affidavit and the reason for condonation of delay, we find that there was sufficient cause for the delay and therefore, we condone the delay and proceed to hear the appeal on merits.

3. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the action of the AO denying the deduction of interest income from investments made in Salem District Central Cooperative Bank amounting to Rs.41,92,145/-.

4. The brief facts are that the assessee society filed its return of income for the assessment year 2020-21 declaring 'nil' taxable income which was selected for scrutiny. The AO noted that the assessee had claimed deduction under Chapter VIA i.e., section 80P(2) of the Act amounting to Rs.2,31,30,475/- out of which Rs.41,93,070/- has been earned from Salem District Central Cooperative Bank (in short "Salem Co-opertive Bank), which was disallowed by the AO. Aggrieved, the assessee preferred an appeal



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before the Ld.CIT(A), who was pleased to confirm the same. Aggrieved, the assessee is before us.

5. We have heard both the parties and perused the records. We note that the assessee, a co-operative thrift and credit society which has inter-alia claimed 80P(2) deduction of Rs.2,31,30,475/- out of which Rs.41,93,070/- being interest received from Salem District Central Co-operative Bank was disallowed by the AO / CIT(A). The assessee has cited the decision of Hon'ble Jurisdictional Madras High Court in TCA No.5 of 2015, order dated 10.08.2016 to support its claim u/s.80P(2) of the Act. According to AO, since assessee has received interest from its FD with the Salem Cooperative Bank, claim u/s.80P cannot be allowed, whereas the Ld.CIT(A) has observed that assessee has received interest from investment in nationalized banks also, which fact the assessee assails as incorrect observation; and brought to our notice that its consistent stand before the AO as well as the Ld.CIT(A) that it didn't had any fixed deposit in any other bank other than Salem District Cooperative Bank. Therefore, we find that the Ld.CIT(A) erred in observing that assessee received interest income from investments made in



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nationalized banks. Having said so, we note that the Ld.CIT(A) confirmed the disallowance of Rs.41,93,070/- u/s.80P(2) of the Act, by citing few decisions, which are not applicable to the facts of the assessee's case. Therefore, we, do not agree to the impugned action of the Ld.CIT(A). As noted the assessee had received interest of Rs.41,93,070/- from Salem District Cooperative Bank and has disallowed the claim of the assessee, which action we don't countenance. Relevant provisions of Sec.80P(2)(d) of the Act reads as under:

Deduction in respect of income of co-operative societies.

80P.(1) *Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.*

(2)The sums referred to in sub-section (1) shall be the following, namely:-

(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

[(4) The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation - For the purposes of this sub-section,-



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(a) "co-operative bank" and "primary agricultural credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(b) primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.]

6. The assessee's case is that it has received interest from Salem District Co-operative Bank which is basically a Co-operative Society. Therefore, the income by way of interest derived by it from its investment with Salem District Co-operative Bank / Society is exempt under sub-clause (d) of sub-section 2 of section 80P of the Act. Hence, we are of the considered view that interest earned by assessee from another Co-operative Society, which in this case a Co-operative Society/Bank is eligible u/s.80P(2)(d) of the Act; unless the Ld.CIT(A)/AO could show that the Co-operative Bank (from which assessee earned interest on its deposits) possess a license from the RBI to do banking business with the public, the deduction cannot be denied; and for such a proposition, we rely on the decision of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. & Others. V. CIT reported in [2021] 431 ITR 1 (SC). Therefore, we hold that unless the assessee earns



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interest income from a Co-operative Bank which possess RBI license, the assessee cannot be denied the deduction u/s.80P of the Act, which is a benevolent provision enacted by the Parliament to encourage and promote the cooperative sector in general and therefore, must be read liberally and reasonably and if there is ambiguity in favour of the assessee. A deduction that is given without any reference to any restriction, or limitation cannot be restricted or limited by implication. Therefore, the Ld.CIT(A) ought not to have denied the claim of assessee. Therefore, we set-aside, the impugned order of Ld CIT(A), and direct the AO to allow the deduction claimed by the assessee u/s.80P(2)(d) of the Act, to the tune of Rs.41,93,070/-.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 26th February, 2025, in Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th February , 2025.

RSR, Sr.PS

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**



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SM55 MEDC Executive Employee
Co-op Thrift & Credit Society

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आदेश की प्रतिलिपि अग्रेषित / **Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT, Salem
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF