

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Sandeep Singh Karhail, Judicial Member**

ITA No.801/Coch/2024 :Asst.Year 2017-2018

Mamala Service Co-operative Bank Limited No.2799 Thiruvaniyoor, Mamala PO Muriyamangalam Ernakulam – 682 305. PAN :AACAM1459J.	v.	The Income Tax Officer Ward - 2 Aluva.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Sri.Sanjit Kumar Das, CIT-DR

Date of Hearing :24.03.2025	Date of Pronouncement : 28.03.2025
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ORDER

Per Sandeep Singh Karhail, JM :

1. The assessee has filed the present appeal challenging the impugned order dated 31/07/2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. When this appeal was called for hearing, neither anyone appeared on behalf of the assessee nor was any application seeking adjournment filed. Therefore, we proceed to decide the present appeal on the basis of the material available on record and after consideration

of the submissions of the learned Departmental Representative ("*learned DR*").

3. The solitary grievance of the assessee is against the denial of deduction under section 80P of the Act.

4. Having considered the submissions of the learned DR and perused the material available on record, we find that in the present case, the assessee is a primary agricultural credit co-operative society registered under the Kerala Co-Operative Societies Act, 1969. For the year under consideration, the assessee filed its return of income on 06/04/2018, declaring a total income of Rs.Nil after claiming deduction under section 80P of the Act. The return filed by the assessee was selected for scrutiny, and vide order dated 29/12/2019 passed under section 143(3) of the Act, the AO held that the assessee is not a primary agricultural credit co-operative society and accordingly disallowed the deduction claimed under section 80P of the Act. The AO noted that out of the total loans granted by the assessee, only 11.48% was granted for agricultural purposes or allied agricultural purposes. The AO further held that the assessee falls within the definition of a primary Co-operative Bank as provided in the Banking Regulation Act. The AO further held that once it falls within the category of Co-operative Bank, the assessee can claim a deduction under section 80P only if it is a primary agricultural credit society by virtue of the exception provided in section 80P(4) of the Act.

5. The learned CIT(A), vide impugned order, dismissed the appeal filed by the assessee. Being aggrieved, the assessee is in appeal before us.

6. It is pertinent to note that the Hon'ble Supreme Court in *Mavilayi Service Co-operative Bank Ltd. v/s CIT, Calicut*, [2021] 431 ITR 1 (SC) while analysing the provisions of section 80P(4) of the Act held that section 80P(4) is a proviso to the main provision contained in section 80P(1) and (2) and excludes only Co-operative Banks, which are Co-operative Societies and also possesses a licence from RBI to do banking business. The Hon'ble Supreme Court further held that the limited object of section 80P(4) is to exclude Co-operative Banks that function at par with other commercial banks i.e. which lend money to members of the public. Thus, we are of the considered view that section 80P(4) of the Act is of relevance only in a case where the assessee, who is a Co-operative Bank, claims a deduction under section 80P of the Act, which is not the fact of the present case. We also find that in *PCIT v/s Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd.* [2023] 150 taxmann.com 173 (SC), the Hon'ble Supreme Court held that a taxpayer who is merely giving credit to its members cannot be said to be the Co-operative Banks/Banks under the Banking Regulation Act and the banking activities under the Banking Regulation Act are altogether different. Therefore, the Hon'ble Supreme Court held that the assessee, a co-operative credit society, could not be termed a

bank/Co-operative Bank and that being a credit society, it was entitled to exemption under section 80(P)(2) of the Act. Therefore, we find no merits in the aforesaid reasoning adopted by the AO in denying the deduction under section 80P of the Act to the assessee.

7. Therefore, respectfully following the decisions of the Hon'ble Supreme Court cited supra, we are of the considered view that the assessee is entitled to claim deduction under section 80P of the Act. Accordingly, the impugned order passed by the learned CIT(A) is set aside, and the grounds raised by the assessee are allowed.

8. In the result, the appeal by the assessee is allowed.

Order pronounced on this 28th day of March, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Sandeep Singh Karhail)
JUDICIAL MEMBER

Cochin; Dated : 28th March, 2025.
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