

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 455/Coch/2023
Assessment Year: 2017-18**

Muliyar Agriculturist Welfare Appellant
Co-operative Society Ltd.
374, Bovikanam Post, Muliyar, Kasaragod
[PAN: AAFAM1658Q]

vs.

The Income Tax Officer Respondent
Ward - 1 & TPS, Kasaragod

Appellant by: Shri Suresh Kumar, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 12.03.2025
Date of Pronouncement: 27.03.2025

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 24.03.2023 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a co-operative society registered under the Kerala State Co-operative Societies Act, 1969. It is classified as a primary agricultural credit co-operative society. It is engaged in the business of providing credit facility to the members. The return of income for AY 2017-18 was filed on 25.07.2018 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, the assessment was completed by the Income Tax Officer, Ward-1, Kasaragod (hereinafter called "the AO") vide order dated 19.12.2019 passed u/s. 143(3) of the Act at total income of Rs. 3, 54,680/- . While doing so, the AO denied deduction u/s. 80P(2)(d) of the Act in respect of interest earned from Kasaragod District Co-operative Bank of Rs. 4,04,680/- by holding that interests earned from co-operative bank does not qualify for deduction u/s. 80P(2)(d) of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal for non-prosecution without entering into the merits of the matter.

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

5. We have heard the rival contentions of both the parties and perused the material available on record.

6. At the outset it is found that there is a delay 27 days in filing the appeal. The appellant filed a petition seeking condonation of delay, which reads as under: -

“Sub: Condonation of delay in submission of appeal.

Our income tax assessment for the A.Y 2017-18 was completed by the Assessment Unit of the Income tax department u/s 143(3) of Income Tax Act, 1961 vide order dt. 19-12-2019 on a total income of Rs. 3,54,680/-, Tax payable was determined at Rs.1,51,236/- as per order dt.19-12-2019. Against this assessment an appeal was preferred to National Faceless Appellate Centre on 24-01-2020. This appeal was dismissed by the NFAC vide order dated 24-03-

2023 by stating that as the appellant does not wish to pursue the appeal as the notices issued were not responded to by the appellant. The omission on the part of the appellant was due to the fact that the appellant was not aware of the notices issued by the first appellate authority in the portal. The password of the mail id registered with the income tax portal was forgotten and due to a bonafide omission failed to update the changes in the portal. This omission was not intentional or wilful. Hence the appellant did not get a proper opportunity for putting forth its contentions against the addition made in the assessment from the first appellate authority as well.

This dismissal of the appeal came to the knowledge of the appellant when the authorized representative prepared the argument note and attempted to upload the same in the portal.

Due to unfortunate circumstances response to the notice u/s 250 was not made and an order u/s 250 of I.T Act, 1961 was passed on 24-03-2023. An appeal for the same was to be filed on or before 23-05-2023 as the appellate order is dated 24-03-2023 and presuming it to have been uploaded on the same day. Being so there is a delay of 25 days in filing this appeal.

An affidavit from the secretary of the appellant society confirming the above facts is furnished separately.

If the appeal is not admitted on account of delay it will cause irreparable financial and mental hardships to us. We, therefore, request your good self to kindly condone the delay of 25 days in filing this appeal and admit the appeal for disposal on merits.

And for this act of kindness, We, as duty bound, shall ever pray,”

In the absence of any evidence contrary to the averments made above, I am of the considered opinion that it is a fit case for condonation of delay. Accordingly I condone the delay and admit the appeal for adjudication on merits.

7. The issue in the present appeal relates to the eligibility of interest income earned by a co-operative society from co-operative banks. Since

the issue is no longer res integra as it is settled by the decision of the Hon'ble Jurisdictional High Court in the case of Pr. CIT vs. Peroorkada Service Co-op. Bank Ltd. [2022] 442 ITR 141 (Ker) which reads as under: -

“12.2 Section 80P deals with Co-operative Societies' computation of income. As already noted, it has four sections and several sub-sections and clauses. The Parliament has considered the various situations in which the exigible income and the deductible income of the assessee is considered while computing the income of the assessee. For getting deduction, in our considered view, the assessee must also establish that the interest income earned by the assessee is from a Co-operative Society. As a matter of fact, in the case on hand, there is no dispute that it is not from a Co-operative Society registered under Kerala Co-operative Societies Act. The interest income earned from District Co-operative Bank/State Co-operative Bank, in the facts and circumstances of the case, do come within Section 80P(2)(d). Therefore, the income constitutes income from other sources and the only eligible deduction is covered by Section 80P(2)(d) viz. Interest or dividend derived by the assessee from its investments with any other Co-operative Society. The source of interest income is from Bank and Treasury, interest income received from Treasury be included in the computation of total income of the assessee. In other words, interest earned from Treasury is inadmissible for deduction and interest income from Co-operative Societies registered under the Kerala Co-operative Societies Act are eligible for deduction. The contra consideration of Commissioner of Income Tax (Appeals) and the Tribunal is incorrect and liable to be modified as stated above. Hence, it is held that the interest income earned by the assessee does not come within the ambit of Section 80P(2)(a)(i) and permissible deduction of interest income is limited to Co-operative Societies/Banks registered under Kerala Co-operative Societies Act under clause (d) of the Act and effect order on the above lines is made by the Assessing Officer. The questions are accordingly answered.”

8. Respectfully following the above decision of the Hon'ble Jurisdictional High Court, we hold that the assessee is entitled for deduction under section 80P(2)(d) of the Act on account of interest received from District Co-operative Bank.

9. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 27th March, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th March, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
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Assistant Registrar
ITAT, Cochin