

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री राकेश मिश्र, लेखा सदस्य के समक्ष  
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Rakesh Mishra, Accountant Member]

**I.T.A. Nos. 1731 & 1809/Kol/2024**  
**Assessment Year: 2018-19**

ITO, Aayakar Bhawan, Haldia	Vs.	Contai Co-operative Agriculture and Rural Development Bank Limited.  (PAN: AACAC 6648 M)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	16.04.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	28.04.2025
For the assessee / निर्धारिती की ओर से	Shri Asim Kumar Dey, A.R
For the revenue / राजस्व की ओर से	Shri Sailen Samadder, Addl. CIT Sr. D.R

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

These are the appeals preferred by the revenue against the separate orders of Commissioner of Income Tax (Appeals)- NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 02.08.2024 & 24.06.2024 for AY 2018-19. In both the appeals, issues are common and same rather one appeal has mistakenly been filed .

2. Brief facts of the case of the assessee are that the assessee is a co-operative society registered under Co-operative Societies Act and Rules, filed its return of income for AY 2018-19 declaring total income at Rs. 29,55,350/- and revised return have also been filed declaring total income same. The case was selected for scrutiny, notice u/s 143(2) was issued. Notice u/s 142(1) of the Act along with questionnaire was also issued to the assessee calling for details, documents and evidences in support of income. The assessee submits his submission but the AO did not find the submission being tenable, accordingly, the AO made disallowance u/s 80P of the Act, an amount of Rs. 5,06,94,148/- has been considered to be the income of the assessee and added to the same in the income of the assessee.

3. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) whereat the appeal of the assessee has been allowed.

Being aggrieved and dissatisfied the revenue has preferred this appeal before us.

4. The Ld. D.R challenges the very impugned order by submitting that the Ld. CIT(A) has erred in not considering the facts that the assessee has received income from various activities which do not corroborate the activity of Primary Agricultural Credit Society or Primary Co-operative Agriculture and Rural Development Bank. The Ld. D.R further submits that the Ld. CIT(A) has further erred in not considering the fact that as per CBDT Circular. Deduction u/s 80P of the Act is liable enough to Primary Agricultural Credit Society or Primary Co-operative Agriculture and Rural Development Bank and as such the assessee is not allowable for the same.

5. Contrary to that the Ld. A.R supports the impugned order thereby submitting that the assessee is a co-operative society registered under Co-operative Societies Act and Rule and the assessee is not registered under the Reserve Bank of India Rules. The Ld. Counsel further submits that there is no restriction for the assessee that the assessee cannot avail RTGS facility or such other facility as the assessee covered under NABARD Bank regulation through WBSCRD and RTGS facility is through WBSCRD. The Ld. Counsel further submits that the assessee is trying to operate his service, margin

technology services i.e. RTGS and NEFT services. The Ld. Counsel submits that the question of violating the norms of Section 80P(2)(a)(i) of the Act does not arise.

6. Upon hearing the submission of the Counsel for the counsel for the respective parties, we have perused the order of AO as well as Ld. CIT(A). In the present case the AO has added an amount of Rs. 5,06,94,848/- after disallowance u/s 80P of the Act. There is no dispute that the assessee is a co-operative society registered under Co-operative Societies Act and Rules and as per the Circular No. 6/2010 deduction u/s 80P of the Act is allowable only to a primary agricultural credit society or Primary Co-operative Agriculture and Rural Development Bank Limited. We have gone through the order passed by the Ld. CIT(A) and find that the Ld. CIT(A) has passed in favour of the assessee after going over the judgment passed by the Hon'ble Apex Court in the case of Mavllayi Services Co-operative bank Ltd. & Ors. Vs. CIT, Calcutt & ors. Dated 12.01.2021. The operative portion of the order of the Ld. CIT(A) is herein thus:

*“To sum up, therefore, the ratio decidendi of Citizen Co-operative Society Ltd. (supra) must be given effect to Section 80P of the IT Act, being a benevolent provision enacted by parliament to encourage and promote the credit of the cooperative sector in general 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, as is sought to be done by the revenue in the present case by adding the word “agriculture” into section 80P(2)(a)(i) when it is not there. Further, Section 80P(4) is to be read as a proviso, which proviso now specifically excludes cooperative banks which are cooperative societies engaged in banking business i.e. engaged in lending money to member of the public, which have a license. In this behalf from the RBI, judged by this touchstone, it is clear that the impugned Full Bench judgment is wholly incorrect in its reading of Citizen Cooperative Society Ltd. (supra). Clearly, therefore, once section 80P(4) is out of harm's way, all the assessee in the present case are entitled to the benefit of the deduction contained in Section 80P(2)(a)(i), notwithstanding that they may also be giving loans to their members which are not related to agriculture. Also in case it is found that there are instances of loans being given to non-members profit attributable to such loans obviously cannot be deducted.”*

7. In the present case, we find that the object of the assessee is to make income from carrying on banking business for its members and income from providing credit facilities to its members. The Ld. CIT(A) has discussed the object of the primary agricultural society in its order and according to him the primary object or pre-business of which is to provide financial activity to its member for agricultural purpose or for

purpose connected for agricultural activities. The submission of the assessee has also been reproduced by the Ld. CIT(A) which is thus:

- i) We are not regulated by Banking Regulations Act, 1949.
- ii) We have no BSR and IFS code provided by RBI.
- iii) No banking facility is provided to any of our customers.
  - a) No cheque facility is available.
  - b) No RTGS, NEFT facility is available with our Society.

8. Going over the order passed by the Ld. CIT(A), we do not find any infirmity in the impugned order, accordingly, the order passed by the Ld. CIT(A) is hereby affirmed and the appeal of the revenue is dismissed.

9. The other appeal bearing ITA No. 1809/Kol/2024 as submitted by the D.R. that it is the same as above appeal and it has mistakenly been filed, so the same is here by dismissed as infructuous.

In the result, both the appeals filed by the revenue are dismissed.

Order is pronounced in the open court on 28th April, 2025

Sd/-

Sd/-

(Rakesh Mishra /राकेश मिश्र)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 28<sup>th</sup> April, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- ITO, Aaykar Bhawan, Haldia
2. Respondent – Contai Co-operative Agriculture and Rural Development Bank Limited, Vill-Contai, Purba Medinipur, West Bengal-721401.
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata