

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - B” BENCH : BANGALORE

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

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| ITA No.1518/Bang/2024 |
| Assessment year : 2018-19 |

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| Neere Bailur Vyavasaya Seva Sahakari Sangha N, DRGS/2586/76-77, Sadhana Sahakara Soudha, Neere Village, Post BAILUR. Karkala Taluk. Udupi – 574 102. PAN: AACAN 2977N | Vs. | The Income Tax Officer, Ward 1 and TPS, Udupi. |
| APPELLANT | | RESPONDENT |

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| Appellant by | : | Shri Sriram V Rao, CA |
| Respondent by | : | Shri Ganesh R. Ghale, Standing Counsel. |

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| Date of hearing | : | 07.05.2025 |
| Date of Pronouncement | : | 19.05.2025 |

ORDER

This appeal of the assessee is against the DIN & Order No. ITBA/NFAC/S/250/2024-25/1065857513(1) dated 20.6.2024 of the Id. CIT(Appeals), National Faceless Appeal Centre, Delhi (NFAC) and for the assessment year 2018-19.

2. The assessee is a cooperative society, filed its return of income on 15.10.2018 declaring total income at Nil after claiming deduction u/s. 80P(2)(a)(i) of the Act for Rs.36,52,084. Return was processed u/s. 143(1) on 10.2.2019. The case was selected for limited scrutiny

under CASS and statutory notices were issued to the assessee. During the course of assessment proceedings the AO noted that the assessee society has received interest income of Rs.56,78,609 from its investments in schedule banks and co-operative banks and this interest was included in its gross income for the purpose of deduction u/s. 80P which do not constitute operational or business income of the assessee society. The assessee was called to show cause as to why this amount should not be disallowed u/s. 80P and treated as income from other sources. The assessee submitted that the surplus amount is deposited with other cooperative societies as well as statutory deposit in the form of fixed deposit and interest earned on such deposits is in the ordinary course of extending credit or banking facilities to the members. The same is eligible for deduction u/s. 80P(2)(a)(i) as well as under 80P(2)(d) of the Act.

3. The AO after considering the submissions of the assessee held that interest earned from other financial institutions i.e., banks, etc. other than co-operative societies has to be assessed under the head income from other sources and no deduction is allowable u/s 80P(2)(a)(i). It is not allowable u/s. 80P(2)(d) of the Act also since it deals with income received from investments from other co-operative societies. He relied on he decision of Totgar's Co-operative Sale Society Ltd. 188 Taxman 282 (SC) and disallowed deduction u/s. 80P and taxed u/s. 56 of the Act.

4. Aggrieved from the assessment order, the assessee filed appeal before the CIT(Appeals). The Id. CIT(Appeals) granted opportunities vide notices on 3 different dates, but there was no response from the assessee on the ITBA portal. The Id. CIT(A) noted that in spite of many opportunities, no material fact has been brought on record by the assessee with any documentary evidence in support of grounds of appeal. He therefore confirmed the assessment order passed u/s. 143(3) of the Act. Aggrieved, the assessee has filed appeal before the Tribunal.

5. The Id. AR submitted that the assessee is a co-operative society carrying on the activity of providing credit facility to its members. The funds invested in commercial banks and co-operative banks are funds which were part of its activity of providing credit facility to its members. The interest received by the Society is required to be statutorily maintained in accordance with Karnataka Co-operative Societies Act, 1959 and Rules, 1960. He relied on several decisions of the coordinate Benches of the Tribunal. It was contended that the interest earned from its investments with any other co-operative society excluding scheduled/nationalised banks is eligible for deduction u/s. 80P2(d) of the Act after setting off loss under the head income from business or profession. The assessee had filed written submissions containing 80 pages and relied on the following decisions:-

- (i) Kachur Credit Co-operative Societies Act in ITA No.478/2023 dated 26.9.2023.

- (ii) S K Goldsmiths Industrial Co-op. Society Ltd. in ITA No.771/2023 dated 12.12.2023.
- (iii) Shree Cheerumba Credit Co-op. Society Ltd. in ITA No.547, 548 & 599/2024 dated 17.5.2024.
- (iv) Hon'ble Supreme Court decision in the case of Kerala State Co-op. Agricultural & Rural Development Bank Ltd., in 458 ITR 384 dated 14.9.2023.
- (v) Totagar's Co-op. Sale Society Ltd. 58 taxmann.com 35

6. Alternatively it was contended that even if the interest is taxed u/s. 56 of the Act, it is eligible for claim of cost of funds u/s. 57(iii) of the Act. It was further contended that the Id. CIT(Appeals) has passed ex parte order without affording sufficient opportunity to the assessee. He submitted that if a chance is given, the assessee will make submissions in support of its case along with documentary evidence before the revenue authorities.

7. The Id. DR objected to giving further chance to the assessee as the assessee did not avail sufficient opportunities granted by the CIT(Appeals) and relied on the order of the lower authorities.

8. I have heard the rival contentions and perused the orders of the lower authorities. I find that the Id. CIT(A) provided 4 opportunities of hearing to the assessee, but the assessee did not respond to any of the notice. Since the assessee failed to offer any explanation with supporting documents in respect of the grounds raised, he dismissed the appeal of the assessee ex parte and confirmed the order of the AO. Considering the prayer of the assessee, and in the interest of justice, I think it appropriate to give one more opportunity of hearing to the

assessee. Therefore I restore the appeal back to the file of the ld. CIT(Appels) for deciding the issue on merits after granting reasonable opportunity of being heard to the assessee.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 19th day of May, 2025.

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th May, 2025.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.