

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 923/Coch/2024
Assessment Year: 2017-18**

ASCO Bank Limited Appellant
Arakulam P.O.Tohodupuzha, Idukki 685591
[PAN: AAALA0637M]

vs.

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

Appellant by: Smt. G Mini, Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 21.05.2025
Date of Pronouncement: 27.06.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi, dated 30.11.2023 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 and classified as primary agricultural co-operative society. It is engaged in the business of lending money to members. The return of income for AY 2017-18 was filed on 17.11.2017 declaring income

of Rs. 2,02,620/-. Against the said return of income, the assessment was completed by the ITO, Ward-1, Thodupuzha vide order dated 17.12.2019 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a total income of Rs. 2,24,14,970/-. While doing so, the AO denied deduction u/s. 80P(2)(a)(i) of the Act in respect of interest income derived from deposits made with scheduled banks and co-operative banks by holding that the appellant is a co-operative bank and hit by provisions of sub-section (f) of section 80P of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A) who wide the impugned order partially allowed the appeal by confirming the disallowance of claim for deduction u/s. 80P(2)(a)(i) and 80P(2)(d) and directed the AO to allow standard deduction of Rs. 50,000/- in terms of provisions of section 80P(c) of the Act.

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

5. The learned counsel for the assessee submitted that the reasoning of the lower authorities was overturned by the Hon'ble Supreme Court in the case of *Mavilayi Service Co-operative Bank Ltd. v. CIT* [2021] 431 ITR 1 (SC). The appellant is not a co-operative bank but a co-operative society, hence, the appeal may be allowed.

6. On the other hand, the learned Sr. DR fairly conceded that the issues in the appeal are covered by the decision of the Hon'ble

Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. v. CIT [2021] 431 ITR 1 (SC) .

7. We have heard the rival contentions and perused the material available on record. The issue that arose for our consideration is whether the appellant co-operative society is entitled for deduction u/s. 80P(2)(a)(i) of the Act. Admittedly the appellant is a primary agricultural co-operative society not engaged in the business of banking and, therefore, provisions of sub-section (4) of section 80P have not application. Accordingly, the lower authorities were not justified in holding that the appellant is a co-operative bank.

8. As regards deduction of interest earned by the appellant society on investments/deposits made with schedule banks, the issue is now settled by the decision of the Hon'ble Kerala High Court in the case of CIT vs. Sahyadri Co-operative Credit Society Ltd. in ITA No. 63 of 2019, wherein it was held as under: -

“ The question that arises therefore is whether, merely because the assessee chooses to deposit its surplus profit in a permitted bank or financial institution, and earns interest on such deposits, such interest would cease to form part of its profits and gains attributable to its business of providing credit facilities to its members? In our view that question must be answered in the negative, since we cannot accept the contention of the Revenue that the interest earned on those deposits loses its character as profits/gains attributable to the main business of the assessee. It is not as though the assessee in the instant case had used the surplus amount (the profit earned by it) for an investment or activity that was unrelated to its main business, and earned additional income by way of interest or gain through such activity. The assessee had only deposited the profit earned by it in the manner mandated under Section 63 of the Multi-State Co-operative Societies Act, or permitted by Section 64 of the

said Act. In other words, it dealt with the surplus profit in a manner envisaged under the regulatory Statute that regulated, and thereby legitimized, its business of providing credit facilities to its members. Under those circumstances, if the assessee managed to earn some additional income by way of interest on the deposits made, it could only be seen as an enhancement of the profits and gains that it made from its principal activity of providing credit facilities to its members. The nature and character of the principal income [profits earned by the assessee from its lending activity) does not change merely because the assessee acted in a prudent manner by depositing that income in a bank, instead of keeping it in hand. The provisions of the I.T. Act cannot be seen as intended to discourage prudent financial conduct on the part of an assessee.”

9. With regard to deduction of interest earned on fixed deposits with co-operative banks, the issue also stands settled in favour of the assessee by the decision of Hon'ble Jurisdictional High Court's decision in the case of PCIT v. Peroorkada Service Co-op. Bank Ltd. [2022] 442 ITR 141 (Ker) wherein their Lordships have rejected the Revenue's identical stand 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.”

10. Respectfully following the above decisions of the Hon'ble Jurisdictional High Court, we hold that the assessee is entitled for deduction u/s. 80P(2)(a)(i) on account of interest received from scheduled banks and u/s. 80P(2)(d) of the Act on account of interest received from Co-operative Banks and Treasury.

11. In the result, the appeal filed by the assessee stand allowed

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

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th June, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin