

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SONJOY SARMA, JM**

**ITA No. 62/Coch/2025
Assessment Year: 2018-19**

Kulasekharapuram Service Co-op. Bank Ltd. Appellant
Kattilkadavu P.O., Karunagappally, Kollam 690542
[PAN: AABAK9297M]

vs.

The Income Tax Officer, Ward-1, Alappuzha Respondent

Appellant by: Shri Rajakannan, Advocate
Respondent by: Shri Suresh Sivanandan, CIT-DR

Date of Hearing: 04.06.2025
Date of Pronouncement: 30.06.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 04.04.2024 for Assessment Year (AY) 2018-19.

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. The return of income for 2018-19 was filed on 25.01.2019 declaring Nil income after claiming deduction u/s. 80P of the

Income Tax Act, 1961 (the Act) of Rs. 6,38,06,361/-. While doing so, the AO denied deduction u/s. 80P(2)(a)(i) by holding that the appellant is a co-operative bank and hit by provisions of section 80P(4) of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order directed the AO to allow deduction u/s. 80P(2)(a)(i) in respect of interest income earned by the appellant society from co-operative society/co-operative bank after due verification. However, proceeded to hold that no allowance of deduction u/s. 80P in respect of interest income earned from Treasury and other commercial banks, thus partly allowing the appeal.

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

5. At the outset we find that the present appeal is filed with a delay of 232 days. The appellant society had filed an affidavit seeking condonation of delay by pleading that the appellant had not received the certified copy of the order passed by he CIT(A) u/s. 250 of the Act and came to know about the order only on 05.04.2024. Therefore, for the purpose of reckoning the period 05.04.2024 was adopted as date of receipt of the order and from there on it took 232 days in filing the present appeal. It is submitted that once the appellant society had come to know about the order passed by the

CIT(A), it was placed before the Management of the society and it was decided to challenge the first appellate order after obtaining legal opinion. As the appellant received divergent legal opinions, decision could not be taken. Ultimately, it approached another counsel who took time to prepare the appeal till December, 2021 owing to prior commitments. Thus, it resulted in a delay of 232 days. Thus he submitted that the delay in filing the appeal may be condoned. Having regard to the averments made in the affidavit seeking condonation of delay, in the absence of any evidence contrary, we are of the considered opinion that the appellant society is prevented by sufficient reasonable cause in filing the appeal within the prescribed limit. Accordingly, we condone the delay and admit the appeal for adjudication.

6. We have heard the rival contentions and perused the material available on record. The issue in the present appeal relates to eligibility of interest income earned by the appellant from the Treasury and scheduled banks. This issue is no longer res integra, as it is covered by the judgement of the Hon'ble Jurisdictional 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.”

7. Respectfully following the above decisions of the Hon'ble Jurisdictional High Court, we hold that the assessee is entitled for deduction under sections 80P(2)(i)(a) of the Act in respect of interest received from Treasury, Scheduled Banks, etc.

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

Order pronounced in the open court on 30th June, 2025.

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th 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

By Order

Assistant Registrar
ITAT, Cochin