

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM
AND SONJOY SARMA, JM****ITA No.230/Coch/2025
Assessment Year: 2017-18**

Peringandoor Service Cooperative Bank Ltd Appellant
11/102A, Athani P O, Athani,
Thrissur-680581.
PAN: AADAP3407G

vs.

The Income Tax Officer Respondent
Ward-2(1),
Thrissur.

Appellant by: Shri Ramdas M, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.06.2025
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 Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 29/02/2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a Primary Agricultural Credit Society. The Return of Income for the AY 2017-18 was filed on

31/03/2018 disclosing NIL income after claiming deduction U/s. 80P(2)(a)(i) of the Act. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-2(4), Thrissur (hereinafter referred to as "AO") vide order dated 17/12/2019 passed U/s. 143(3) of the Income Tax Act, 1961 (in short "the Act") at a total income of Rs. 2,63,91,320/-. While doing so, the AO denied the deduction in respect of interest income earned on the investments made with Thrisur District Cooperative Bank, Rubber market and Treasury Account by holding that it cannot be treated as a business income of the appellant.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order held that interest income earned on deposits held with Cooperative Bank is entitled for deduction U/s.80P(2)(d) of the Act. However, denied the deduction in respect of interest income of Rs. 44,36,816/- earned from the Treasury Account and Rubber market.

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

5. At the outset, there is a delay of 327 days. the appellant had filed a petition seeking condonation of delay by stating that the delay had occurred on account of pursuing of alternative remedy of rectification petition U/s. 154 before the National Faceless Appeal Centre. We are of the considered opinion that the appellant was pursuing alternative remedy. In the absence of any

contrary, we condone the delay of 327 days and admit the appeal for adjudication.

6. The issue in the present appeal relates to the eligibility of interest income earned from the Treasure Account and Rubber Market etc., for deduction U/s. 80P(2)(a)(i) of the Act. This issue is no longer *res integra* as it stands settled by the decision of the Hon'ble Jurisdictional High Court in the case of Principal Commissioner of Income Tax vs. M/s. Sahyadri Co-operative Credit Society Ltd in ITA No. 68 of 2017. For the sake of immediate reference, relevant paragraphs from the said decision of the Hon'ble High Court are extracted herein below:

“7. On a consideration of the rival submissions, we are of the view that for the reasons stated hereinafter, the question of law that arises for consideration before us must be answered against the Revenue and in favour of the assessee. The permissible deduction that is envisaged under Section 80P(2) of the I.T. Act for a Co-operative Society that is assessed to tax under the head of 'Profits and Gains of Business or Profession' is of the whole of the amount of profits and gains of business attributable to any one or more of its activities. Thus, all amounts as can be attributable to the conduct of the specified businesses by a Co-operative Society will be eligible for the deduction envisaged under the statutory provision. 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

8. *We also find force in the submission of the learned Senior counsel, distinguishing the decision of the Supreme Court in M/s. The Totgars' Cooperative Sale Society Limited (supra), on the ground that the Court in that case had found that the Society concerned had appropriated amounts forming part of surplus receipts which were due to its members, and invested the same to earn interest during the period when the surplus receipts were in its hands. It was therefore that the court found that the interest earned by the Society through deposit of such receipts with banks in fact ought to have accrued to the benefit of the individual members and not to the Society itself; that in relation to the Society, it was to be treated as income from other sources since the interest income had lost its nexus with the principal income earned by the Society. The facts in the instant cases are entirely different and the investment concerned was of amounts that had already attained the character of surplus profits in the hands of the assessee. On this issue, therefore, we find ourselves in agreement with the view taken by the Andhra Pradesh and Karnataka High Courts respectively in The Vavveru Co-operative Rural Bank Ltd. (supra) and Tumkur Merchants Souharda Credit Co-operative Limited (supra).*

9. *As for the argument of the learned Standing Counsel for the Revenue, with reference to the provisions of Section 80P(2)(d) of the I.T. Act, we might only observe that, while it may be a fact that interest income of the nature specified therein is specifically allowed as a deduction in the case of Co-operative Societies in general, in the light of our discussion above as regards the nature of the interest income earned by the assessee Society in the instant cases, it would follow that the interest income dealt with by us in the instant cases is not akin to the one contemplated under Section 80P(2)(d). We are of the view that the latter provision deals with interest income other than what can be attributable to the main business of the Society.*

In the result, we dismiss these I.T. Appeals preferred by the Revenue, in so far as they relate to the question as to “whether or not the income received by the respondent Society by way of interest, on deposits of surplus profits earned by it, would qualify for the deduction contemplated under Section 80P(2)(a) of the I.T. Act, for profits and gains of business attributable to its activity of providing credit facilities to its members?” by answering the said question against the Revenue and in favour of the assessee.”

7. In the light of this decision and respectfully following the decision of the Hon'ble jurisdictional High Court in the case of M/s. Sahyadri Co-operative Credit Society Ltd (supra), we hold that the interest income earned by the appellant Cooperative Bank from Treasury Account and Rubber market qualifies for deduction/s. 80P(2)(a)(i) of the Act. Accordingly, the AO is directed to delete the addition.

8. In the result, appeal of the assessee stands 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

okk sps

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