IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH

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

ITA No. 250/Coch/2025
Assessment Year:2021-22

Thiruvalla Service Cooperative Bank Ltd ..... Appellant
No. 1307, Kavumbhagam,
Thiruvalla P.O,
Kerala – 689102.
PAN:AACAT9668A

vs.

Income Tax Officer ..... Respondent
Ward-2,
Thiruvalla.

Appellant by: None
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.06.2025
Date of Pronouncement: 30.06.2025

O R D E R

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "CIT(A)"), dated 29/01/2025 for Assessment Year (AY) 2021-22.

2. Briefly the facts of the case are that the appellant is a cooperative society classified as Primary Agricultural Cooperative Society. The Return of Income for the AY 2021-22 was filed declaring NIL after claiming deduction U/s. 80P(2)(d) of the Act. Against the said return of income, the assessment was completed by the National Faceless Assessment Centre, Delhi (hereinafter referred to as "Assessing Authority") vide order dated 18/12/2022 passed U/s. 143(3) r.w.s 144B of the Income Tax Act, 1961 (in short "the Act") at a total income of Rs. 2,12,60,018/-. While doing so, the Assessing Authority denied the deduction U/s. 80P(2)(d) of the Income Tax Act, 1961 (in short "the Act") in respect of the interest income received from Kerala State Cooperative Bank, District Cooperative Bank, Bank of Baroda, ICICI Bank.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order dismissed the appeal for non-prosecution without entering into the merits of the addition.

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

5. When the appeal was called on, none appeared on behalf of the assessee despite issue of service of notice. Therefore, we dispose of this appeal after hearing the Ld. Sr. DR.

6. At the outset, we find that the appeal was dismissed for non-prosecution without entering into the merits of the addition made by the AO.

As contemplated u/s. 250(6) of the Act the CIT(A) is required to frame points of determination followed by a detailed discussion thereupon before passing the order. It is the settled position of law that the CIT(A), even while disposing of the appeal exparte, is duty bound to dispose of the appeal on merits. Reliance in this regard can be placed on the decision of the Hon'ble Bombay High Court in the case of PCIT vs. Premkumar Arjundas Luthra 279 CTR 614. Therefore, in the light of the above legal position we are of the considered view that the matter requires to be remanded to the file of the CIT(A) with a direction to dispose of the appeal de novo on merits after affording reasonable opportunity of hearing to the assessee.

7. In the ordinary course, we could have remitted the matter back to the file of the CIT(A) to decide the issue on merits. However, since the issue in appeal can be decided based on the material available on record, we proceed to dispose of the case on merits.

8. The Assessing Authority made addition of interest income earned on the investment made with Scheduled Banks and Cooperative Banks by holding that the income is assessable under the head “income from other sources”.

9. We notice that the issue related to interest income received from the District Co-operative bank stands adjudicated by 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 deductable 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 decision of the Hon'ble Jurisdictional High Court, we hold that the assessee is entitled for deduction under section 80P(2)(d) of the Act on account of interest received from District Cooperative Bank.

11. With regard to the interest income earned from Scheduled Banks, Treasury etc., this issue also stands covered in favour of the assessee by the decision of the Hon'ble jurisdictional High Court in the case of Principal Commissioner of Income Tax vs. M/s. Sahyadri Co-operativbe 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*
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> *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."

12. Respectfully following the decisions of the Hon'ble jurisdictional High Court in the, we hold that the interest income earned by the appellant

Cooperative Society qualifies for deduction U/s. 80P of the Act. Accordingly, we direct the AO to delete the addition.

13. In the result, appeal filed by the assessee stands allowed.

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

Sd/-	Sd/-
(SONJOY SARMA)	**(INTURI RAMA RAO)**
JUDICIAL MEMBER	**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