

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No.207/Hyd/2025
(निर्धारण वर्ष/ **Assessment Year:2016-17**)

Assistant Commissioner of Income Tax, Circle – 1, Karimnagar.	Vs.	Co-operative Electric Supply Society Limited, Siricilla, Karimnagar. PAN : AAAAC0346G
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

C.O. No. 13/Hyd/2025

in

(In आयकरअपीलसं./I.T.A.No.207/Hyd/2025)
(निर्धारण वर्ष/ **Assessment Year:2016-17**)

Co-operative Electric Supply Society Limited, Siricilla, Karimnagar. PAN : AAAAC0346G	Vs.	Assistant Commissioner of Income Tax, Circle – 1, Karimnagar.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Lalith Kishore Sharma, Advocate. (Appeared through Hybrid Mode)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Posu Babu Alli, Sr.DR

सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	19.08.2025
घोषणा की तारीख/Date of Pronouncement	:	26.08.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the revenue is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 17.12.2024, which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 143(3) of the Income Tax Act, 1961 (for short, "the Act") dated 20.12.2018 for A.Y. 2016-17.

2. The Revenue has assailed the impugned order on the following grounds of appeal before us:

1. The Ld.CIT(A) has erred both on facts and law.
2. On the facts and circumstances of the case, the order of the CIT(A) is against the provisions of the IT Act, 1961 and therefore is unsustainable in law.
3. The Ld.CIT(A) erred in not appreciating the fact that the interest earned on 'special fund investment' is not offered to tax either in the hands of the assessee by the REC.
4. Any other ground that may be urged at the time of hearing."

On the other hand, the assessee society is before us as a Cross-Objector on the following grounds:

“1) On the facts and circumstances of the case, the Grounds of Ld. AO are feeble, in much as orders of CIT(A) were based on the decisions of the Honourable Members of the ITAT, pronounced after a detailed examination of the facts and circumstances for the periods and vide ITA Nos. listed in the annexure submitted herewith.

2) The Ld. AO failed to appreciate the fact that the Hon'ble members have already given a finding that the liability against the Interest on Special Fund lies with the REC and it is for the Department to collect the taxes from the appropriate assessee rather than to file an appeal to extract tax in contravention to the findings of the Hon'ble ITAT with his preposterous theory and surmises.

3) Finally, the Ld. AO's contentions do not find any merit and are fallacious in as much as the entire demands for the period of litigation from AY 1999-2000 to 2016-17 have all been put to rest by the counter party viz., REC by preferring settlement under the Vivad-se-Vishwas Scheme, 2000 and a Certificate to this effect has been provided by them for submission before the Hon'ble members for consideration and concluding the appeal.

4) On the facts and submissions made herein and the evidence as discussed above placed on record, the Appellant humbly prays the Hon'ble Members to consider and dismiss the Appeal filed by the Ld. AO.”

3. Succinctly stated, the assessee society had e-filed its return of income for A.Y. 2016-17 on 17.10.2016, declaring an income of Rs.13,73,020/-. The return of income filed by the assessee society

was initially processed as such u/s 143(1) of the Act. Thereafter, the case of the assessee society was selected for scrutiny assessment u/s 143(2) of the Act.

4. During the course of assessment proceedings, the A.O. observed that the assessee society has created a fund i.e. Special Fund. On being queried, the assessee society submitted that the special fund was created as per the requirement of the Rural Electrification Corporation of India Ltd (REC). Elaborating on the facts, the assessee society submitted that it had taken a loan long back from M/s. REC Ltd., and instead of paying the interest on the same, the said amount was credited in a special savings bank fund account that was converted into Fixed Deposits (FDs) with the Bank. The A.O. observed that though the assessee society during the subject year had accrued interest on the subject FDs of Rs.3,26,59,247/- but the same was not routed through its profit and loss account and included in its total income for the year under consideration. Further, the A.O. observed that the aforesaid interest income was directly credited by the assessee society to the special fund investment account.

5. The A.O. called upon the assessee society to explain the reasons for not routing the aforesaid interest income through its profit and loss account and offering the same for tax during the year under consideration. In reply, the assessee society explained the reasons for not offering the subject interest accrued on the fixed deposits as its income for the subject year, as under:

- The fund was required to create as per the REC's direction.
- Instructed by the REC to credit the interest payable to spl.fund account instead of paying the same to REC
- The fund is to be utilized only for the approved purposes by REC and the society has been operating as TRUSTEES OF THE FUND ON BEHALF OF REC.
- REC had made certain rules relating to creation & utilization of spl.fund and society do not have any right or privilege.
- The special fund is the property of REC and is to be handed over to REC in case of any breach of contract.
- Following the instructions of the governing authority viz., REC, the society had deposited such funds into banks as FDs and the entire deposit is maintained under the head "spl.fund investments' in the balance sheet.
- The society is required to update the status to REC The interest accruing on such FDRs is directed credited to the Spl. Fund account.
- To sum up, it is pleaded that under the above circumstances, the society is not at all having any control over the FDs and it is not the owner and hence any income arising out of the above FDs are not includible in its total income.
- It is further contended that since this position of the society is already affirmed by the jurisdictional ITAT, for the asst.year 2007-08, 08-09, 09-10 and 11-12, the contention of the society be accepted.

However, the A.O. did not find favour with the aforesaid explanation of the assessee society. The A.O. held a conviction that as the ownership of TDR/FDRs and savings bank accounts vested with the assessee society only and not with M/s.REC, wherein the latter was only exercising the administrative control over the said bank accounts, thus, rejected the explanation of the assessee society and held the entire amount of the accrued interest on the FDRs of Rs. 3,26,59,247/- as the income of the assessee society for the subject year. Accordingly, the A.O vide his order passed u/s 143(3) of the Act, dated 20.12.2018, determined the income of the assessee society at Rs. 3,63,07,328/-.

6. Aggrieved, the assessee society carried the matter in appeal before the CIT(A). The CIT(A) taking cognizance of the fact that the subject issue i.e. assessability of the accrued interest on the FDRs was covered by the order passed by ITAT, Hyderabad, B Bench in ITA No.1324/Hyd/2017 dt.17.04.2018 in the assessee own case for A.Y. 2013-14, wherein the order passed by his predecessor dated 22.11.2016 vacating the addition of the interest income was

upheld by the Tribunal, respectfully followed the same and directed the A.O. to delete the addition of Rs. 3,26,59,247/-.

7. Being aggrieved with the order of CIT(A), the Revenue has carried the matter in appeal before us.

7. We have heard the learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. ARs to drive home their contentions.

8. Shri Lalith Kishore Sharma, Advocate, the learned Authorized Representative (for short "Ld.AR") for the assessee society, at the threshold of hearing of the appeal, submitted that the solitary issue involved in the present appeal is squarely covered by the order passed in the assessee's own case for the preceding years. Elaborating on his contention, the Ld. AR submitted that the A.O., as in the preceding years, had, during the subject year, brought the interest income on the Special Reserve Fund (SRF) to tax in the hands of the assessee society. The Ld. AR submitted that the A.O. had lost sight of the fact that the Tribunal, in the assessee's

own case for the preceding years, i.e., A.Ys. 1999-2000 to 2006-07 and A.Ys. 2007-08 to 2011-12 and A.Y. 2012-13 to 2013-14, had vacated the impugned additions made in the hands of the assessee society. The Ld. AR to buttress his claim had drawn our attention to the details of the orders passed by the Tribunal in the case of the assessee society for A.Y. 1999-2000 to A.Y 2014-15 wherein in all the said matters, the subject issue was decided in favour of the assessee society and the addition of the impugned interest income made by the A.O. was vacated, Page 2 of APB. The Ld. AR submitted that in all the aforementioned cases, the Tribunal has held that the impugned interest income was liable to be assessed in the hands of M/s. Rural Electrification Corporation (for short "M/s. REC Ltd."), but, as the assessee society had failed to place on record the details which could substantiate that the impugned interest income was assessed in the hands of M/s. REC Ltd., therefore, the matter was restored to the file of the CIT(A) for re-adjudication after verifying the assessee's claim. The Ld. AR to fortify his contention has taken us through the order passed by the ITAT, Hyderabad Bench in the case of the assessee society in ITA No. 54/Hyd/2019 for A.Y. 2014-15, dated 16.02.2021. The

Ld. AR further submitted that M/s. REC Limited had thereafter to put an end to the litigation, wherein it was subjected to tax in respect of the interest income on the Special Reserve Funds, had opted to get the same settled under the “Vivad Se Vishwas Scheme, 2020” for the entire period from 1999-2000 to 2017-18. The Ld. AR to support his contention had taken us through the certificate issued by M/s. REC Limited (undated), wherein it was stated that it had in respect of the taxability of interest income on Special Reserve Funds (SRF) opted for the “Vivad Se Vishwas Scheme, 2020”, Page 5 of APB. The Ld. AR, submitted that as the Tribunal had held that the interest income on Special Reserve Funds is to be brought to tax in the hands of M/s. REC Limited, and as on date it is established that M/s. REC Limited (supra) had, inter alia, for the subject year, i.e., A.Y. 2015-16, after having been assessed for the said income, opted under the “Vivad Se Vishwas Scheme, 2020”, therefore, the impugned addition made in the hands of the assessee society cannot be sustained and is liable to be quashed.

9. Per contra, Shri Posu Babu Alli, the learned Senior Departmental Representative (for short “Ld. DR”) relied upon the orders of the lower authorities.

10. We have given thoughtful consideration to the facts involved in the present case in the backdrop of the orders of the authorities below.

11. We find that the subject issue involved in the present appeal has perpetuated in the case of the assessee society over the years i.e. A.Y. 1999-2000 to A.Y. 2014-15. On the last occasion, the Tribunal vide its order passed in ITA Nos. 411 and 478/Hyd/2025 dated 20.08.2025 for A.Y. 2015-16 and A.Y. 2020-21, had after deliberating at length on the issue in hand and taking cognizance of the Ld. AR’s claim that M/s. REC Ltd. had in respect of the taxability of the interest income on the Special Reserve Fund for the period from A.Y. 1999-2000 to A.Y. 2017-18, opted to get the same settled under the “Vivad se Vishwas Scheme, 2020” had set aside the matter to the file of CIT(A) with a direction to verify the same. For the sake of clarity, the observations of the Tribunal in

ITA Nos. 411 and 478/Hyd/2025 dated 20.08.2025 for A.Y. 2015-16 and A.Y. 2020-21 are culled out as under:

“11. Admittedly, it is a matter of fact discernible from the record that the Tribunal in the assessee’s own case for the preceding years, as mentioned above, had concluded that the impugned interest income, as in earlier years, is to be assessed in the hands of M/s. REC Limited. For the sake of clarity, the observations of the Tribunal, while disposing of the appeal of the assessee viz. The Cooperative Electric Supply Society Limited Vs. ITO, Ward -1, Karimnagar in ITA No.54/Hyd/2019 dated 16.02.2021 for A.Y. 2014-15 are culled out as under :

“4. We have given our thoughtful consideration to rival pleadings against and in support of impugned interest income addition. Suffice to, it is noticed that the impugned interest income has continued to be assessed in M/s REC's hands only in all the earlier AYs. There is further no indication in the case records that any change has taken place in the Fixed Deposit Instrument holder's name(s) in the relevant previous year. The fact remains that the assessee has failed to place on record the corresponding details that the impugned interest income has also been assessed in M/s REC's hands in levant previous year. We therefore conclude that the instant sole issue requires necessary factual verification to this limited extent at the CIT(A)'s end. We accordingly restore this sole substantive issue back to CITA(A) for his fresh appropriate adjudication within three effective opportunities of hearing subject to all just exceptions.”

12. Although, the Ld. AR had produced before us a certificate issued by M/s.REC Ltd., wherein it is stated that, in respect of the taxability of the interest income on Special Reserve Funds from A.Ys. 1999-2000 to 2016-17, it had opted to get the same settled under the Vivad Se Vishwas Scheme, 2020, we find that the said certificate was never produced before the authorities below. We may herein observe that, as the aforesaid certificate (undated) is an additional evidence, therefore, the assessee society ought to have filed an application seeking permission to place the same on record under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963.

13. Be that as it may, we are of the firm conviction that, as the assessee society had not placed any irrefutable material/ documentary evidence on record which could substantiate that the subject interest income had been assessed in the hands of M/s.REC Ltd., therefore, the matter, in all fairness, requires to be restored to the file of the CIT(A),

who is directed to verify the aforesaid claim of the assessee. In case the claim of the assessee society that the interest income has been assessed in the hands of M/s.REC Ltd. is found to be in order, then the impugned addition in the hands of the assessee shall stand vacated.

14. Resultantly, the appeal filed by the assessee society is allowed for statistical purposes in terms of our directions hereinabove.”

12. As the facts and issue involved in the appeal remains the same as were there in the appeal filed by the assessee society for the aforementioned assessment years i.e. A.Y. 2015-16 and 2020-21, therefore, we respectfully follow the same and set aside the matter to the file of CIT(A) with a direction to verify the claim of the assessee society, viz. (i). that the interest income on the Special Reserve Funds (SRF) has been assessed in the hands of M/s REC Ltd.; and (ii). that M/s. REC Ltd. had in respect of the taxability of the interest income on Special Reserve Funds (SRF) opted for the “Vivad se Vishwas Scheme, 2020”. In case, the claim of the assessee society is found in order, then the impugned addition in the hands of the assessee society shall stand vacated.

13. Resultantly, the appeal filed by the Revenue is allowed for statistical purposes in terms of our aforesaid observations.

C.O.No.13/Hyd/2025

14. Ostensibly, the Cross-Objection (for short “C.O.”) filed by the assessee society involves a delay of 118 days. On perusal of the record, it transpires that it is the claim of the assessee society that the delay in filing of the C.O. had crept in for the reason that it had belatedly gathered about the filing of the appeal by the department, as the mail intimating the same was dropped in its Spam Mail. Apart from that, it is stated that some delay had crept in because of the time taken in obtaining the confirmations from the concerned party viz. M/s. REC Ltd, Delhi.

15. We have given thoughtful consideration and are of the view that as there are justifiable reasons leading to the delay in filing of the cross-objection., therefore, the delay involved in filing of the present appeal merits to be condoned.

16. As the C.O. filed by the assessee society is merely supportive, therefore, the same is disposed of in terms of our observations recorded while disposing of the appeal filed by the Revenue in ITA No.207/Hyd/2025.

17. Resultantly, both the appeal filed by the Revenue and the Cross-Objection filed by the assessee society are allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 26th August, 2025.

Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
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Hyderabad, dated 26.08.2025.

TYNN/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Co-operative Electric Supply Society Limited, 7-5-2005, Tahsil Road, Siricilla, Karimnagar – 505301.
2.	राजस्व/ The Revenue	:	The Assistant Commissioner of Income Tax, Circle – 1, Karimnagar
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad