

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - A” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

ITA No.649/Bang/2017
Assessment year : 2013-14

The Income Tax Officer, Ward 2(1), Hubli.	Vs.	M/s. Dharwad District Police Credit Co-op. Society Ltd., Near New Bus Stand, P.B. Road, Dharwad. PAN: AABAD 6467C
APPELLANT		RESPONDENT

Appellant by	:	Smt. Swapna Das, Jt.CIT(DR)(ITAT)-2, Bengaluru
Respondent by	:	None

Date of hearing	:	15.05.2017
Date of Pronouncement	:	26.05.2017

ORDER

This appeal is preferred by the revenue against the order of
CIT(Appeals) *inter alia* on the following grounds:-

- (i) Whether, on fact & in the circumstances of the case and in law. The Ld. CIT(A), Hubballi was justified in law in holding that the assessee society is entitled to deduction under section 80P(2)(a)(i) of the Income tax Act even when the assessee-society is mainly involved in extending credit facilities to its members which is in the nature of a bank transaction, treated on par with the new clause introduced in the definition of Income in section 2(24)(viia) of the Act and comes under the purview of section 80P(4) w.e.f. 01.04.2007.

2. This appeal came up for hearing on 15.05.2017, but none appeared on behalf of the assessee, though notice of hearing was duly served upon it and AD card is placed on record. Therefore, I have no other option, but to hear the appeal *ex parte*. Accordingly revenue was heard.

2. I have carefully examined the orders of lower authorities and I find that the AO has denied the benefit of deduction claimed u/s. 80P(2)(a)(i) of the Act against which the appeal was filed before the CIT(Appeals) and placed reliance upon the judgment of Hon'ble jurisdictional High Court in the case of *CIT, Hubli v. Bhavasar Kshatriya Co-op. Credit Society Ltd.* in which they have confirmed the view of the Tribunal and allowed deduction u/s. 80P of the Act against the income earned from members/deposits. The CIT(Appeals) allowed the appeal of assessee against which revenue is in appeal before me and placed reliance upon the assessment order.

3. Though none appeared for the assessee, I have examined the order of CIT(Appeals) and find that he has adjudicated the issue in the light of the ratio laid down by the Hon'ble jurisdictional High Court in the case of *Shri Biluru Gurubasava Pattina Sahakari Sangha Niyamitha* and *CIT, Hubli v. Bhavasar Kshatriya Co-op. Credit Society Ltd.* Since the CIT(Appeals) has decided the following the judgments of Hon'ble jurisdictional High Court, I find no infirmity in his order. However, for the sake of reference, I extract the relevant portion of the order of CIT(Appeals) hereunder:-

“6. In the case of Shri. Biluru Gurubasava Pattina Sahakari Sangha Niyamita, Bagalkot, the Hon'ble High Court of Karnataka has held as under.

" If a Co-operative Bank is exclusively carrying banking business, then the income derived from the said business cannot be deducted in computing the total income of the assessee. The said income is liable for tax. A Co-operative bank as defined under the Banking Regulation Act includes the primary agricultural credit society or a primary co-operative agricultural rural development bank. The Legislature did not want to deny the said benefit to the primary agricultural credit society or a primary co-operative agricultural rural development bank. They did not want to extend the said benefit to a co-operative bank which is exclusively carrying on banking business i.e. the purport of the amendment. If the assessee is not a Cooperative Bank carrying on exclusively banking business and if it does not possess a licence from the Reserve Bank of India to carry on business, then it is not a Co-operative bank. It is a Co-operative society which also carries on the business of lending money to its members which is covered u/s. 80P(2)(a)(i) i.e. carrying on the business of banking providing credit facilities to its members The object of the aforesaid amendment is to exclude the benefit extended u/s 80P(i) to the society."

7. In the case of CIT, Hubli Vs. Bhavasar Kshatriya Co-operative Credit Society Ltd (ITA No.100206/2015), the Hon'ble High Court of Karnataka, Dharwad Bench, after following the decision in the case of Shri. Biluru Gurubasava Pattina Sahakari Sangha Niyamita, has dismissed the appeal of 'the department i.e. the appeal is decided in favour of the assessee, who had claimed deduction u/s. 80P against income as interest from members/deposits.

8. In the case of CIT-IV, Bangalore Vs. Yeshwantpur Credit Cooperative Society Ltd (ITA No.237/2012), the Hon'ble High Court of Karnataka, following the decision in the case of Shri. Biluru Gurubasava Pattina Sahakari Sangha Niyamita, has decided the appeal against the Department.

9. Respectfully, following the above decisions and in view of the fact that, the income of the appellant society has been earned mainly as interest from members and other co-op banks and

societies, I decide to hold that, the deduction claimed u/s. 80P cannot be denied. All grounds are allowed.”

4. Since the CIT(Appeals) has decided the issue following the judgments of Hon'ble jurisdictional High Court, I find no infirmity therein and accordingly I confirm his order.

5. In the result, the appeal of revenue is dismissed.

Pronounced in the open court on this 26th day of May, 2017.

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 26th May, 2017.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.