

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

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER

ITA No. 2018/Bang/2016
Assessment year : 2012-13

M/s. Sri Udaya Ravi Souhardha Pattina Sahakari Niyamitha Udayaravi Bhavana, 1 <sup>st</sup> Main Road, 7 <sup>th</sup> Cross, K.R. Extension, Tiptur – 572 201.  <b>PAN: AAWFS 0981J</b>	Vs.	The Income-Tax Officer, Ward-1, Tiptur.
APPELLANT		RESPONDENT

Appellant by	:	Shri P. Dinesha, Advocate
Respondent by	:	Shri AR.V. Sreenivasan, JCIT(DR)

Date of hearing	:	23.02.2017
Date of Pronouncement	:	28.02.2017

**ORDER**

*Per Vijay Pal Rao, Judicial Member*

This appeal by the assessee is directed against the order dated 25.08.2016 of CIT(A) for the assessment year 2012-13. The assessee has raised the following grounds.

*“1. The order of the learned CIT(A) insofar as it is prejudicial to the interest of the appellant, is bad and unsustainable in the eye of the law.*

*2. The CIT(A) ought to have appreciated that the income earned from e-stamping was directly attributable to the banking business of the appellant credit co-operative society.*

*3. Without prejudice, the appellant having maintained details of expenditure relatable to earning the income from E-stamping in its books of Account, the CIT(A) ought to have given the benefit of netting instead of dismissing the ground raised in this behalf.*

*4. For these and such other grounds that may be urged at the time of hearing, the Appellant prays that the appeal may be allowed.”*

2. The only issue arises in this appeal of the assessee is disallowance of the benefit u/s. 80P in respect of the income from e-stamping. The assessee is a credit co-operative society and engaged in providing credit facility to its members as per the bylaws. During the assessment proceedings the AO observed that the assessee has earned a sum of Rs. 1,13,661/- by way of commission on e-stamping facilities provided and treated the same as income from other sources on which deduction u/s. 80P of the IT Act was claimed. The AO accordingly disallowed the deduction by holding that the income from e-stamping being not eligible for deduction u/s. 80P(2) of the Act. The assessee challenged the action of the AO before the CIT(A) but could not succeed.
3. Before the tribunal the Id. AR of the assessee has submitted that though the e-stamping activity is not a core business activity of the assessee however, when the state government has entrusted this job to the co-operative societies then it was thrust upon the assessee to undertake the e-stamping activity and therefore the income by way of commission on

e-stamping is eligible for deduction u/s. 80P. Alternatively the ld. AR has submitted that the AO has disallowed the gross commission income instead of net amount after adjusting the expenditure incurred by the assessee for earning such income. On the other hand, the ld. DR has relied upon the order of the authorities below and submitted that the commission income on e-stamping facility has no direct or proximate connection with the banking business of the assessee society and therefore the deduction u/s. 80P(2) is not available on such income which is not tried from the business activity.

4. Having considered the rival submissions as well as relevant material on record, it is noted that the income from e-stamping commission has been computed on estimate basis. Therefore the issue of net income has not been considered by the authorities below as claimed by the assessee. There is no quarrel on the point that even in case the benefit of 80P is denied on the income from e-stamping facility the corresponding expenditure for earning such income has to be taken into consideration. Thus, in case this income is held as not eligible for deduction u/s. 80P only the net amount has to be added to the total income of the assessee society and not the gross amount of the commission. Therefore, I find merit and substance in the alternate plea of the ld. AR of the assessee that only the net amount of the income from e-stamping facility has to be

added to the income of the assessee and not the gross amount. Accordingly, the AO is directed to consider only the net amount for the purpose of addition by disallowing the deduction u/s. 80P. As regards the income eligible for deduction u/s. 80P if is not disputed by the assessee that e-stamping facility is not the core business activity nor it is a ancillary or other supporting business activity to the core activity of the assessee. Thus, when e-stamping have no annexes with the business activity of the assessee society then I do not find any error or illegality in the orders of the authorities below qua this issue.

5. In the result the appeal of the assessee is partly allowed.

Pronounced in the open court on this 28<sup>th</sup> day of February, 2017.

Sd/-  
(VIJAY PAL RAO)  
Judicial Member

Bangalore,  
Dated, the 28<sup>th</sup> February, 2017.

/MS/

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.