

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 3214/Mds/2016
निर्धारण वर्ष /Assessment year : 2006-2007.

The Painkulam Primary Agricultural Co- Vs The Income Tax Officer,
Operative Bank Ltd, Ward 1(2)
Painkulam, Nagarcoil.
Kanyakumar Dist.

[**PAN AACFT 5079N**]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. R.Anjalose, C.A.
प्रत्यर्थी की ओर से /Respondent by : Shri. R. Clement Ramesh
Kumar, JCIT.

सुनवाई की तारीख/Date of Hearing : 01-03-2017
घोषणा की तारीख /Date of Pronouncement : 29-03-2017

आदेश / ORDER

Assessee in this appeal is aggrieved that it was denied deduction claimed u/s.80P(2) of the Income Tax Act, 1961 (in short "the Act").

2. Assessee has filed this appeal with a delay of one day. Condonation petition has been filed. Reason shown for the delay

seems to be justified. Ld. Departmental Representative did not raise any serious objection. Delay is condoned. Appeal is admitted.

3. Facts apropos are that assessee a Co-operative bank had filed return for the impugned assessment year disclosing nil income after claiming deduction u/s.80P(2)(a)(i) and 80P (2)(d) of the Act. During the course of assessment proceedings, assessee also claimed deduction u/s. 80P(2)(c) of the Act. Ld. Assessing Officer was of the opinion that deduction u/s. 80P(2)(c) (i) of the Act could be allowed to the extent sum of ₹ 1,00,000/- for its trading income and balance trading income was taxable. Hence out of the trade profit ₹6,11,819/- shown by it in its profit and loss account, exemption of ₹1,00,000/- was given and balance of ₹5,11,819/- was computed on total income of the assessee .

4. Aggrieved, assessee moved in appeal before Id. Commissioner of Income Tax (Appeals). Ld. Commissioner of Income Tax (Appeals) after going through the net profit and loss account of the assessee found that the trading profit of ₹6,11,819/- derived from trading in rice, wheat, suji, kerosene, salt, maida etc was a part of total profit of ₹10,30,235/-. The balance of the profit, as per Id. Commissioner of Income Tax (Appeals), represented interest income from Co-operative bank. Ld. Commissioner of Income Tax (Appeals)

noted that assessee has claimed exemption for interest receipts from co-operative banks u/s. 80P(2)(d) of the Act considering the gross amount without netting the interest payment of ₹57,33,287/- and establishment expenditure of ₹10,94,948/-. According to him assessee could not have earned interest income from co-operative banks without paying interest of ₹57,33,287/- on deposits raised by it. Considering the facts and circumstances, he did not make any enhancement of income but upheld the restriction made by the Id. Assessing Officer on its claim u/sec. 80P(2)(c) (i) of the Act.

5. Now before me, Id. Authorised Representative submitted that deduction u/s. 80P(2)(a) of the Act could not be limited to net interest when nexus between interest received and paid was not established by the Id. Assessing Officer. According to him, by virtue of Sec. 80P(2) (a) (i) of the Act, gross interest could be deducted. Further, according to him, the restriction made by the Id. Assessing Officer u/s. 80P(2) (c) of the Act was unjustified.

6. Per contra, Id. Departmental Representative strongly supported the orders of the authorities below.

7. I have considered the rival contentions and perused the orders of the authorities below. During the course of assessment before Id. Assessing Officer, assessee filed a revised trading account

which reflected trading profit ₹6,11,819/-. It is not disputed that assessee was having trading business of rice, wheat, suji, kerosene, salt, maida etc. apart from its banking facilities. It is not disputed by the Id. Authorised Representative that the activity of the assessee in so far as it related to such trading came within clause (c) of Sec. 80P(2) of the Act. Assessee had claimed and was given deduction u/sec. 80P(2) (a) (i) of the Act for its banking business. There is no claim made by the assessee that agricultural produce sold by it was grown by its members for availing deduction u/s. 80P(2)(a) (iii) of the Act. Once Sec. 80P(2) (c) of the Act applied the restriction of such deduction to ₹1,00,000/- is automatic. Contention of the Id. Authorised Representative is that the profit on which such deduction is to be given on profits after deducting all necessary expenditure incurred for earning the income. What we find is that Id. Assessing Officer had given deduction of ₹ 1,00,000/- u/s. 80P(2) (c) (i) of the Act from the trading profit and not from the gross receipts. In so far as claim under section 80P(2)(a)(i) of the act is concerned the deduction is the amount of profits and gains attributable to the business of banking or providing credit facilities to members and not on gross interest receipt before setting off interest expenditure and other business expenditure. This view of Id. Commissioner of Income Tax (Appeals) was also correct. Hence, I am of the opinion that lower

authorities were justified in restricting such deduction to a sum of ₹ 1,00,000/- from the trading profit shown by the assessee in its audited profit and loss account. We do not find any reason to interfere with the orders of the lower authorities.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced on Wednesday, the 29th day of March, 2017, at Chennai

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:29th March, 2017

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |