

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI S.S. VISWANETHRA RAVI, HON'BLE JUDICIAL MEMBER  
AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1055/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2017-18

Potheri Village Weaning Food  
Manufacturing Womens  
Development Industrial Coop,  
12, Amman Koil Street, Potheri  
Katankolathur Post,  
Kanchipuram – 603 203.

**[PAN: AAAAP-9745-Q]**

(अपीलार्थी/Appellant)

Income Tax Officer,  
v. Non-Corporate Ward – 22(1),  
Tambaram.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. I. Dinesh, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. Aroon Prasad, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 25.07.2024

घोषणा की तारीख/Date of Pronouncement

: 07.08.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 19.03.2024.

2. The only ground of appeal raised by the assessee is the Ld.CIT(A) has erred in confirming the AO's order in disallowing

the claim of deduction U/s.80P for the A.Y. 2017-18 in respect of interest of Rs.10,14,372/- received from State bank of India (Rs.3,42,190/-) and Tamilnadu Industrial Co-Op.Bank (Rs.6,72,182/-).

3. The brief facts are that, the assessee is a co-operative society formed and managed by the Govt. of Tamilnadu through the department of Social welfare. The main object of the co-operative society is to provide livelihood as well as development of poor women. All the members of the society are women who are below poverty line (BPL). The Society is executing only Government of India Scheme of providing nutritious food mix to the children below 5 years who are studying in the Anganwadis run by the Government of Tamil Nadu and destitute pregnant women. The Appellant is getting allotment of wheat from the Tamil Nadu Civil Supplies Corporation Ltd., through the Government of Tamil Nadu. Also getting the blend (a mixture of various nutritious grains and nuts) through the Government approved sources. The members of the Society (Appellant) receive the above, clean the same, dry the wheat through the heating process, grinding the wheat into flour, mixing the wheat

flour and the blend, packing the same into 1 kg packs and deliver the same to the designated Anganwadi centers.

3.1 The Assessee is a cottage Industry assessed as AOP (Co-operative Society) under the Income Tax Act, 1961 and has been allowed deduction u/s. 80P(2)(a)(i) of the Income Tax Act, 1961 on its entire incomes being attributable to the carrying on the business of cottage industry. For the Assessment year 2017-18 the Assessee had filed the Return of Income on 31-10-2017 declaring NIL income by claiming deduction us 80P(2)(a)(ii) of the Income Tax Act, 1961 on its whole incomes as attributable to the carrying on the business cottage industry. Initially the assessment was completed by passing orders on 31-05-2019 u/s.143(3) of the ACT, subsequently, order u/s.263 of the Act was passed on 27-03-2022 setting aside the assessment orders passed earlier u/s.143(3) and directed the Assessing Officer to examine the issues discussed in the order u/s 263. Accordingly, the Assessing Officer, has revised the orders u/s.143(3) r.w.s 263 and disallowed the interest income of Rs.10,14,372/- received from State Bank of India (Rs.3,42,190/-) and TAICO Bank (Rs.6,72,182/-) being not eligible under section 80P for the reason that the State Bank of

India is a Commercial bank and TAICO Bank is not a cooperative society but only a bank. Further the learned Assessing Officer had come to the conclusion that the Cooperative Banks are not Cooperative Societies and hence the interest received from Cooperative Banks are not eligible for direct deduction u/s.80P(2)(a) (i)/80P(2)(d) of the Income Tax Act, 1961 and raised the demand, by disallowing the interest incomes as not being attributable to carrying on the business cottage industry. Aggrieved by the order of the AO, the assessee preferred an appeal before the Ld.CIT(A), NFAC, Delhi.

4. The Ld.CIT(A), is pleased to confirm the action of the AO and dismissed the appeal of the assessee. Aggrieved by the order of the Ld.CIT(A), the assessee challenged the same by filing an appeal before us.

5. Before us, the Ld.AR Shri. I.Dinesh, appeared and argued that, the assessee is a co-operative society formed by the Government of Tamilnadu through social welfare department. The Ld.AR filed a paper book before us consisting of 1 to 47 pages and drew our attention to the Circular No.722 of the

CBDT dated 19/09/1995 (Page No.37 of the paper book), wherein the criteria for availing the benefits of Section 80P(2)(a)(ii) of the Act by a 'cottage industry' have been specified in para 3 as detailed below:

*"(a) a cottage industry is one which is carried on a small scale with a small amount of capital and a small number of workers and has a turnover which is correspondingly limited;*

*(b) it should not be required to be registered under the Factories Act;*

*(c) it should be owned and managed by the co-operative society;*

*(d) the activities should be carried on by the membership of the society and their families. For this purpose, a family would include self, spouse, parents, children, spouses of the children and any other relative who customarily lives with such a member. Outsiders (i.e., persons other than members and their families) should not work for the society. In other words, the co-operative society should not engage outside hired labour;*

*(e) a member of co-operative society means a shareholder of the society;*

*(f) the place of work could be an artisan shareholder's residence or it could be a common place provided by the co-operative society;*

*(g) the cottage industry must carry on activity of manufacture, production or processing; it should not be engaged merely in trade, i.e., purchase and sale of the same commodity."*

5.1 Further, stated that both the AO and Ld.CIT(A) have appreciated the fact that the assessee is a cottage industry but still have disallowed the interest earned from the banks as not eligible for deduction U/s.80P(2)(d) against the claim of the assessee U/s.80P(2)(a)(ii) of the Act. The Id. AR reiterated that,

the interest income earned by the society is in its regular course of its operations and forms part of the revenue attributable to the operations of the society as a cottage industry and hence it is eligible for deduction 80P(2)(a)(ii) itself.

5.2 Further the Ld.AR relied on the decision of the Hon'ble High court of Karnataka in the case Tumkur Merchants Souharda credit Co-Op. Ltd Vs.ITO, Ward V, Tumkur (2015) 55 Taxmann.com 447(Kar), wherein the Hon'ble High Court held as under:

**"8.** Therefore, the word "attributable to" is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to" being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Cooperative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act."

5.3 Therefore, the lower authorities have grossly erred in disallowing the said deduction U/s.80P(2)(d), without appreciating the fact that, the claim of the assessee was u/s. 80P(2)(a)(ii). Further, the Ld.AR brought to our notice that, the AO has accepted the claim of the assessee in the earlier year assessment proceedings for the A.Y. 2016-17 and passed the order U/s.143(3) dated 27/09/2018 by accepting the return of income filed and allowed the deduction U/s. 80P(2)(a)(ii). Therefore, the Ld.AR pleaded for setting aside the orders of the lower authorities and allow the appeal of the assessee's claim of deduction U/s.80P(2)(a)(ii) of the Act.

6. Per contra, the Ld.Addl.CIT Mr.Aroon prasad stated that, the assessee is not eligible for deduction U/s.80P(2)(d), as the interest income on deposits has been received by the assessee from the banks and not from the co operative societies. Further, contended that, the Tamilnadu Industrial Co-op. Bank Ltd, Chennai (TAICO Bank) has been carrying on the business of banking as per the Licence No.RPCD.(Che)/05/03.00.109/2009-10 dated April 06, 2010 and therefore, the AO and the Ld.CIT(A) has rightly disallowed the deduction claimed by the

assessee U/s.80P(2)(d) of the Act on account of interest income earned from the Banks.

7. We have heard the rival contentions and gone through the order of the court and the orders of the lower authorities. It is noted that, for the Assessment year 2017-18 the Assessee had filed the Return of Income on 31-10-2017 declaring Rs.NIL income by claiming deduction u/s.80P(2)(a)(ii) of the Act, on its whole incomes as attributable to the carrying on the business of cottage industry. Initially the assessment was completed by passing orders on 31-05-2019 u/s.143(3) of the Act, subsequently order u/s.263 of the Act was passed on 27-03-2022 setting aside the assessment orders passed earlier u/s.143(3) and directed the Assessing Officer to examine the issues discussed in the order u/s 263. Accordingly, the Assessing Officer, has revised the orders u/s.143(3) r.w.s 263 and disallowed the interest income of Rs.10,14,372/- received from State Bank of India (Rs.3,42,190/-) and TAICO Bank (Rs.6,72,182/-) being not eligible under section 80P for the reason that the State Bank of India is a Commercial bank and TAICO Bank is not a cooperative society but only a bank.

8. We note that the assessee is a co-operative society formed by the Government of Tamilnadu through social welfare department. The Ld.AR filed a paper book before us consisting of 1 to 47 pages and drew our attention to the Circular No.722 of the CBDT dated 19/09/1995 (Page No.37 of the paper book), wherein the criteria for availing the benefits of Section 80P(2)(a)(ii) of the Act by a 'cottage industry' have been specified in para 3 (supra). According to Ld.AR the assessee is a cottage industry, since the criteria stated in the said circular are satisfied and eligible for claiming deduction U/s. 80P(2)(a)(ii) of the Act. According to the AR both the AO and Ld.CIT(A) have appreciated the fact that the assessee is a 'cottage industry' but still have disallowed the interest earned from the banks as not eligible for deduction U/s.80P(2)(d) against the claim of the assessee U/s.80P(2)(a)(ii) of the Act. It is observed that the interest income earned by the society is in its regular course of its operations and does forms part of the revenue 'attributable' to the operations of the society as a cottage industry and in our considered view the assessee is eligible for deduction 80P(2)(a)(ii) itself. On perusal of the decision of the Hon'ble High court of Karnataka in the case Tumkur Merchants Souharda credit Co-Op. Ltd Vs. ITO, Ward V, Tumkur (supra),

relied by the Ld.AR is clearly explained that, the interest earned from the deposits made out of the idle funds of the assessee, the said interest income is attributable to the profits and gains of the business only. Therefore, respectfully following the decision of the court, we are of the view that the lower authorities have grossly erred in disallowing the said deduction U/s.80P(2)(d), without appreciating the fact that, the claim of the assessee as a cottage industry and the entire Income was claimed as deduction u/s. 80P(2)(a)(ii). Therefore, considering the facts and circumstances of the present case, we are of the view that, the assessee is a cottage industry and the entire income is attributable to business of the society and hence eligible to claim Interest earned on deposit also as deduction U/s.80P(2)(a)(ii) of the Act and allow the appeal of the assessee.

9. In the result the appeal of the Assessee is allowed.

Order pronounced in the court on 07<sup>th</sup> August, 2024 at Chennai.

**Sd/-**

(एस एस विश्वनेत्र रवि)

**(S.S. VISWANETHRA RAVI)**

न्यायिक सदस्य/**Judicial Member**

**Sd/-**

(एस. आर. रघुनाथा)

**(S. R. RAGHUNATHA)**

लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 07<sup>th</sup> August, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF