

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA Nos. 343, 380 & 387/Coch/2023
Assessment Years: 2016-17 to 2018-19**

Peeroorkada Service Co-op. Bank Ltd Appellant
Peeroorkadsa P.O., Thiruvananthapuram 695005
[PAN: AAAAP3974B]

vs.

The Income Tax Officer, Ward-2(1) Respondent
Thiruvananthapuram

Appellant by: ----- None -----
Respondent by: Shri Sundarasan S., CIT-DR

Date of Hearing: 29.05.2025
Date of Pronouncement: 23.06.2025

ORDER

Per: Inturi Rama Rao, AM

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 23.02.2023 for Assessment Years (AY) 2016-17 to 2018-19.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 343/Coch/2023 for AY 2016-17 are stated herein.

4. Brief facts of the case are that the appellant is a co-operative society registered under the Kerala State Co-operative Societies Act, 1969. It is classified as a primary agricultural credit co-operative society. The appellant society filed the return of income for AY 2016-17 on 30.09.2016 disclosing Nil income after claiming deduction under the provisions of section 80P(2)(a)(i) of the Income Tax Act, 1961 (the Act). Against the said return of income, the assessment was completed by the ITO, Ward 2(1), Thiruvananthapuram (hereinafter called "the AO") vide order dated 24.12.2018 passed u/s. 143(3) of the Act at a total income of Rs. 101,29,03,480/-.

5. While doing so, the AO disallowed the claim for deduction u/s. 80P of the Act by holding that the appellant is a co-operative bank and hit by provisions of sub-section (4) of section 80P of the Act and also placing reliance on the decision of Full Bench judgement of the Hon'ble Kerala High Court in the case of Chirakkal Service Co-operative Bank Ltd. v. CIT[2016] 384 ITR 490 (Ker). The AO also made addition u/s. 68 of the Act of Rs. 40,66,82,991/-. The AO also made several other additions.

6. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order allowed the deduction u/s. 80P(2)(a)(1) following the decision of the Hon'ble Apex Court in the case Mavilayi Service Co-operative Bank Ltd. v. CIT [2021] 431 ITR 1 (SC). He also allowed the deduction u/s. 80P(2)(i)(a) of the Act. However, the CIT(A) confirmed the addition u/s. 68 of the Act for

the alleged failure of the assessee to discharge the onus of proving the identity, creditworthiness and genuineness of the parties who made the cash deposits. Thus, the appeal filed by the appellant was partly allowed.

7. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

8. At the outset we find that there is a delay of 17 days in filing the present appeal. The appellant filed a petition along with an affidavit seeking condonation of delay in filing the appeal, wherein it is stated that the appellant had requested their auditors to prefer appeal against the order of the CIT(A) and they undertook to do the needful soon after the rush of work of filing returns of income and audit were over. Thereafter the appellant got in touch with the auditors and had got the appeal prepared and filed on 10.05.2023. Therefore, it is prayed that the delay in filing the appeal is not intentional, hence, may be condoned and the appeal may be admitted for adjudication. On a perusal of the averments made in the condonation petition, it is evident that the appellant is prevented by reasonable cause from filing the appeal. Therefore, we condone the delay and admit the appeal for adjudication.

9. When the appeal was called on nobody appeared on behalf of the assessee despite due service of notice of hearing. The matter was posted several occasions and on each time the appellant society

sought adjournment of hearing of this appeal. Since the appellant had not even filed adjournment petition today, we proceed to dispose of this appeal after hearing the learned CIT-DR.

10. The learned CIT-DR submits that even in the assessee of a primary agricultural credit co-operative society it is incumbent upon the assessee to discharge the onus cast upon it under the provisions of section 68 of the Act. He further submits that the addition made by bringing the cash credit to tax does not qualify for deduction u/s. 80P(2)(i)(a) in view of *Mavilayi Service Co-operative Bank Ltd. v. CIT* [2021] 431 ITR 1 (SC). Thus, he further submits that the CIT(A) had rightly confirmed the addition placing reliance on the decision of the Hon'ble Supreme Court in the case of *A. Govindarajulu Mudaliar v. CIT* 34 ITR 807(SC). Therefore, no interference is called for.

11. We have heard the rival contentions and perused the material available on record. It would be evident that the appellant society had not discharged the onus lying upon it in terms of provisions of section 68 of the Act by proving the identity, creditworthiness and genuineness of the persons made the deposits with the appellant society on the pleas that this information cannot be filed before the lower authorities solely on the ground of secrecy to be maintained by the banking companies about the customers. We are afraid that the explanation cannot be accepted. Even in the case of banking companies it is bound to maintain KYC records in terms of Banking

Regulation Act and RBI directions. Thus, the AO had rightly invoked section 68 and brought to tax the deposits received from the parties u/s. 68 of the Act.

12. As regards the contention of the appellant that the addition made u/s. 68 of the Act would enhance business income of the appellant co-operative society, which qualifies for deduction u/s. 80)(2)(i)(a) cannot be accepted in view of the fact that there is no absolute proposition that all the additions made u/s. 68 or 69 always emanate from business income. It is for the assessee to prove that the cash credits were brought into books out of disclosed business income of the assessee. The appellant had not discharged this onus. Therefore, we do not find any merit in the appeal filed by the assessee. The appeal filed by the assessee stands dismissed.

13. Since identical issues are involved in ITA No. 380 & 387/Coch/2023, the above findings are mutatis mutandis apply to these appeals also.

14. In the result, the appeals filed by the assessee stand dismissed.

Order pronounced in the open court on 23rd June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 23rd June, 2025

n.p.

ITA Nos. 343, 380 & 387/Coch/2023
Peeroorkada Service Co-op. Bank Ltd.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin