आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

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

आयकर अपील सं./**ITA No.: 2870/Chny/2024 &**
CO No.06/Chny/2025
(in ITA No.: 2870/Chny/2024)
निर्धारण वर्ष / Assessment Year: **2016-17**

The Assistant Commissioner of Income Tax, Circle 1, Salem.	vs.	**Pandyan Grama Bank,** **Now known as Tamil Nadu Grama Bank,** No.6, Yercaud Road, Hasthampatty, Salem – 636 007.
(अपीलार्थी/Appellant)		**[PAN: AAHAT-7854-K]** (प्रत्यर्थी/Respondent)

Assessee by : Shri. N. Arjun Raj, Advocate &
Shri. P. Gurusamy, I.T.P.
Department by : Shri. Shivanand K Kalakeri, C.I.T.

सुनवाई की तारीख/Date of Hearing : 15.04.2025
घोषणा की तारीख/Date of Pronouncement : 27.06.2025

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM:

This appeal filed by the Revenue and cross objection filed by the assessee are directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2016-17, vide order dated 18.07.2024. Since facts are identical and issues are common, appeal filed by the Revenue and cross objection filed by the assessee were heard and are being disposed off by this consolidated order.

2. The revenue has raised the following grounds in **I.T.A. No.2870/Chny/2024:**

1. *The order passed by the CIT(A) of National Faceless Appeal Centre is against the facts and circumstances of this case.*

2. *The learned CIT(A) has erred in holding that the status of the assessee is 'Co-operative Society. The CIT(A) ought to have noted that as per Chapter III of Regional Rural Bank Act 1976, the direction and management of the affairs and business of a Regional Rural Bank shall vest in a Board of Directors who may exercise all the powers and discharge all the functions which may be exercised or discharged by the Regional Rural Bank and hence the status of the assessee is a corporate entity.*

3. *Further, the CIT(A) erred in ignoring the fact that Section 80P was amended by the Finance Act, 2006 w.e.f. 1st April 2007 introducing sub-section (4), which laid down specifically that the provisions of section 80P will not apply to any Co-operative bank other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Further, Circular No.6 dated: 29.09.2010 issued by CBDT clarified that Regional Rural Banks (RRB) are basically corporate entities (and not Co-operative societies) they are not eligible for deduction u/s 80P of I.T. Act from the assessment year 2007-08. Furthermore, the circular No.319 dated 11.09.1982 deeming any Regional Rural Bank to be Co-operative Society stands withdrawn for application from assessment year 2007-08.*

4. *The CIT(A) failed to appreciate the fact that the activity of the assessee cannot be construed as a co-operative society. The assessee is governed by Banking Regulation Act, it is not a co-operative society meant for its members and providing credit facilities to its members. The basic criteria for the claim of co-society is the concept of mutuality where the transaction is between its members. In the assessee's case, the functioning is like commercial bank and performing banking functions to general public. The assessee's activity is purely commercial in nature and should be treated as a co-operative bank. Since the bank is established a corporate body, the status of the assessee is to be considered Company.*

5. *For these and other reasons that may be adduced at the time of hearing, the order of the CIT(A) be reversed and the order of the Assessing officer be upheld.*

2.1 The assessee has raised the following grounds of cross objection in **C.O. No.06/Chny/2025:**

1. *The order of the NFAC, Delhi dated 18.07.2024 vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1066804127(1) in so far as the issues raised in present Cross Objection for the above mentioned assessment year is contrary to law, facts, and in the circumstances of the case.*

2. *The NFAC, Delhi erred in confirming the assumption of jurisdiction under Section 147 of the Act and consequently erred in confirming validity of the re-assessment order dated 31.12.2018 without assigning proper reasons and justification.*

3. *The NFAC, Delhi failed to appreciate that having not followed the prescription of law/procedure for framing the re-assessment, the consequential re-assessment order passed by the Assessing Officer should be reckoned as nullity in law for want of jurisdiction.*

4. *The NFAC, Delhi failed to appreciate that the passing of the re-assessment order is invalid in view of the parallel conduct of the assessment proceedings by way of issuance of notice under Section 143(2) of the Act, thereby vitiating the passing of the re-assessment order in its entirety.*

5. *The NFAC, Delhi failed to appreciate that the Assessing Officer's reference to the return of income filed by the assessee entity, more especially with regard to the claim of deduction under Section 80P of the Act for the purpose of forming of an opinion to believe income has escaped assessment was neither fresh nor tangible and ought to have appreciated that having disclosed said transaction duly in the financial statements filed by the assessee in the return of income, there could not be any scope for assuming jurisdiction under Section 147 of the Act.*

6. *The NFAC, Delhi failed to appreciate that the presumption of escapement of income within the scope of Section 147 of the Act was wrong and incorrect and ought to have appreciated that the provisions in Section 147 of the Act was completely misread and misapplied for the erroneous sustenance of wrong assumption of jurisdiction by the appellant to pass re-assessment order.*

7. *The NFAC, Delhi failed to appreciate that the Assessing Officer having not recorded cogent belief / suggestion of escapement of income by the Respondent, the consequential invocation of provisions in Section 147 of the Act should be reckoned as bad in law.*

8. *The NFAC, Delhi failed to appreciate that mechanical approval by the competent authority in terms of Section 151 of the Act for the purpose of initiating re-assessment proceedings would vitiate the consequential re-assessment order passed in the absence of independent application of mind by the competent authority in terms of Section 151 of the Act.*

9. *The NFAC, Delhi failed to appreciate that the order of re-assessment under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.*

10. *The NFAC, Delhi failed to appreciate that the quantification of interest on refund issuable in terms of Section 244A was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.*

11. *The Respondent craves leave to file additional grounds/arguments at the time of hearing.*

3. At the outset, we find that there is a delay of 39 days in appeal filed by the revenue. After hearing both the parties, we find that there is a reasonable cause for the revenue in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the revenue for adjudication.

4. The brief facts of the case are that the assessee Pandyan Grama Bank had filed its Return of Income for the assessment year 2016-17 on 30.09.2016 declaring "NIL" income after claiming deduction u/s.80P(2)(a)(i) of the Act. Subsequently, the case of the assessee was re-opened by issuing notice u/s.148 of the Act dated 24.01.2018 and the re-assessment proceedings was completed by denying the deduction claimed u/s.80P of the Act by stating that the assessee is a scheduled bank in assessing the total income at Rs.67,65,65,075/-.

5. The above re-assessment order dated 10.08.2018 was challenged before the ld.CIT(A) (First Appellate Authority) and wherein the First Appellate Authority had allowed the deduction claimed by the assessee by allowing the related grounds of appeal.

6. The Revenue has challenged the order of the ld.CIT(A) in the present appeal and in this regard, the ld.AR submitted that the only dispute in the present case is that the assessee being a regional rural bank registered under RRB Act, 1976, was to be treated as a co-operative bank or co-operative society for the purpose of claiming deduction u/s.80P(2)(a)(i) of the Act.

7. In this regard, the ld.AR submitted that the assessee / cross objector is governed by the provisions of The Regional Rural Bank Act, 1976 and hence, the

attempt to treat the assessee /cross objector as a co-operative bank for the purpose of denying deduction u/s.80P of the Act was wrong.

8. In this context, the ld.AR further submitted that the assessee is a co-operative society in view of the provisions of Section 22 of the RRB Act, 1976 and wherein it is stated as follows:

> ***22. Regional Rural Bank to be deemed to be a co-operative society for purpose of the Income-tax Act, 1961.***
>
> *For the purpose of the Income-tax Act. 1961 (43 of 1961), or any other enactment for the time being in force relating to any tax on income, profits or gains, a Regional Rural Bank shall be deemed to be a co-operative society.*

9. Moreover, the provisions of Section 32 of the said Act would override any other Act if it is inconsistent with the provisions of RRB Act and the relevant portion of Section 32 is extracted below:

> ***32. Art to override the provisions of other laws.***
>
> *The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, express or implied, or in any instrument having effect by virtue of any law other than this Act. and notwithstanding any custom or usage to the contrary.*

10. The ld.AR argued that the only contention of the Revenue is based on the circular issued by CBDT to treat the co-operative societies as co-operative bank and in this regard, it is submitted that the stand of the assessee as well as the order of the First Appellate Authority is supported by various decisions of this Tribunal in assessee's own case for earlier assessment years which has considered the provisions of the RRB Act as well as the circular issued by CBDT. Further, the ld.AR drew our attention to the orders of this Tribunal passed for the assessment years 2007-08 to 2014-15 in Page 96 to 129 of the Paperbook dated 03.02.2025.

11. The ld.AR further submitted that the stand of the assessee is fortified by the decision of the Rajasthan High Court in 2019(8) TMI 1131 in the case of PCIT, Ajmer v M/s Bhilwara Zila Dugdh Utpadak Sahakari Sangh Ltd wherein it was held as under:

> *"This Court is of the opinion that the revenue's contention is unsustainable. Section 22 in uncertain terms categorically deems Regional Rural Banks (of which description Baroda Rajasthan Regional Rural Banks answer to) as Cooperative Societies for the purposes of Income Tax Act.*
>
> *In the absence of non-obstante clause, the mere fact that a restrictive condition was imposed in relation to a Cooperative Bank for regulating the benefit of Section 80P, does not in any manner, alter the pre-existing situation.*
>
> *By virtue of Section 22, Regional Rural Banks continue to be deemed Cooperative Societies and all the contingent consequences that flow from it."*

12. In such factual and legal background, the ld.AR pleaded for dismissing the appeal filed by the Revenue in view of the fact that the issue raised in the present appeal is covered in favour of the assessee by virtue of orders of this Tribunal in assessee's own case for earlier years.

13. With respect to the cross objection raised by the assessee, the ld.AR submitted that the revenue had erred in assuming jurisdiction u/s.147 of the Act on the presumption of escapement of income which is vehemently objected to.

14. Further, the re-assessment proceedings was initiated by referring to the return of income filed by the assessee, especially with regard to the claim of deduction u/s.80P(2)(a)(i) of the Act and in this regard, the ld.AR submitted that from the reasons recorded, it is evident that the above information emanating from the return of income filed by the assessee is neither fresh nor tangible and therefore, the re-assessment proceedings initiated in the absence of any new fresh and tangible material does not survive.

15. The ld.AR submitted that the above stand of the assessee is fortified by the decision of Madras High Court in the case of M/s.Tenzing Match Works reported in 419 ITR 338 and wherein the Hon'ble Madras High Court held as follows:

> *"The legal principle laid down in the above decision is that the language employed in section 147 does not make any distinction between an order passed under section 143(3) and the intimation issued under section 143(1) and therefore it is not permissible to adopt different standards while interpreting the word 'reason to believe' vis-à-vis section 143(1) and section 143(3). In the instant case it is not in dispute that the reopening is based upon the return of income filed the assessee at the first instance. There is no allegation against the assessee that there was a failure on the part of the assessee to make a true disclosure nor the Assessing Officer had relied on any tangible material which has come to his knowledge after the filing of the return and intimation under section 143(1), justifying the reopening. Therefore to reopen an assessment based on the return filed by the assessee will clearly be a case of change of opinion and consequently bad in law."*

16. Moreover, the assessing officer while re-opening the assessment had failed to appreciate that for the very same issue relating to claim of deduction u/s.80P of the Act, the assessee was subjected and succeeded before the Tribunal for earlier assessment years which orders of the Tribunal was very much available at the time of initiating the present re-assessment proceedings thereby negating the presumption of escapement of income in the hands of the assessee for the purpose of assuming jurisdiction u/s.147 of the Act.

17. Therefore, re-opening the case of the assessee for the very same issue which is decided in favour of the assessee is wrong and does not stand the test of law and therefore deserves to be quashed in the interest of justice.

18. The second issue raised in the cross objection filed by the assessee is with respect to the denial of the benefit u/s.80P of the Act with respect to the interest income earned from income tax refund. In this regard, the ld.AR submitted that the interest earned from the income tax refund by carrying on the business of banking

and providing credit facility to its members should be reckoned as income earned from the principal activity of providing credit facility and hence the said component would be entitled to deduction u/s.80P of the Act.

19. The ld.AR submitted that the above stand of the assessee is fortified by the Judgement of High Court of Punjab & Haryana in 322 ITR 404 wherein the Hon'ble High Court had held as under:

> *"We are not impressed with the argument that the interest on refund of income-tax paid in excess was not attributable to the income derived from the business of banking within the meaning of section 80P(2)(a)(i) of the Act. Once the income-tax paid was derived from the business income then interest income would partake of the character of the principal amount because the interest paid to the assessee-respondent is compensation on account of deprivation of the use of money."*

20. In such circumstances, the ld.AR pleaded for granting the benefit of deduction u/s.80P of the Act with respect to the interest received on tax refund by allowing the grounds raised by the assessee.

21. Further, with respect to the claim of interest quantified u/s.244A of the Act, the assessee /Cross Objector had objected to the quantification adopted by the assessing officer and in this regard, the ld.AR submitted that the interest u/s.244A of the Act ought to have been calculated from the date of remittance of TDS till the date of credit of refund.

22. The ld.AR prayed for giving appropriate directions to the AO to grant interest u/s.244A of the Act from the date of remittance of TDS till the date of credit of refund in the interest of justice.

23. On the cumulative consideration of the facts and circumstances of the present case, the ld.AR prayed for dismissing the appeal filed by the Revenue and further

pleaded for allowing the grounds raised in the cross-objection filed in the interest of justice.

24. The ld.DR submitted that the ld.CIT(A) has erred in deleting the disallowance of deduction u/s.80P of the Act by not following the CBDT circular. Further, the ld.DR stated that the reopening of assessment has been done in accordance with law and hence prayed for setting aside the order of the ld.CIT(A) and dismiss the CO filed by the assessee.

25. We have heard the rival contentions perused the material available on record and gone through the orders of the authorities along with the judicial precedents relied on. The assessee M/s.Pandyan Grama Bank had filed its Return of Income for the assessment year 2016-17 on 30.09.2016 declaring "NIL" income after claiming deduction u/s.80P(2)(a)(i) of the Act. The assessee's case was re-opened and the re-assessment proceedings was completed by denying the deduction claimed u/s.80P of the Act by stating that the assessee is a 'scheduled bank' and assessed the income at Rs.67,65,65,075/-. On appeal before the ld.CIT(A) the First Appellate Authority had allowed the deduction claimed by the assessee by allowing the related grounds of appeal, following the decision of this Tribunal in assessee's own case for the earlier assessment years. We note that the Assessee is a Regional Rural Bank governed by the Regional Rural Bank Act, 1976.

26. As per Section 22 of the RRB Act explicitly states that an RRB shall be deemed to be a co-operative society for the purposes of the Income-tax Act, 1961. Further, Section 32 of the RRB Act contains a non-obstante clause, making the RRB Act prevail over any inconsistent provisions of other laws. Therefore, the argument of

the Revenue based on CBDT circulars is thus contrary to the overriding effect of the RRB Act.

27. We also find that the Hon'ble Rajasthan High Court, in PCIT v. Bhilwara Zila Dugdh Utpadak Sahakari Sangh Ltd. [2019 (8) TMI 1131], has affirmed that RRBs continue to be treated as co-operative societies under the Income-tax Act by virtue of Section 22 of the RRB Act.

28. Further, we note that the Tribunal has decided the same issue and passed the order in favour of the assessee for the assessment years 2007-08 to 2014-15 in the following Appeals:

ITA Nos.	Assessment Year	Date	Paper Book Page Nos.
1941/Mds/2009	2007-08	13.08.2010	96-103
1088, 1091 & 1092/Mds/ 2012	2007-08 to 2009-10	23.08.2012	104-110
572 & 595/Mds/2014	2008-09 to 2010-11	25.08.2014	111-115
1831/Mds/2015	2011-12	18.03.2016	116-120
2319 & 2320/Mds/2016	2012-13 & 2013-14	30.11.2016	121-128
3073/Chny/2017	2014-15	24.05.2018	129-134

29. In the latest decision of the Tribunal for the assessment year 2014-15 has allowed the deduction u/s.80P(2)(a)(i) of the Act by holding as under:

> *6. We have heard both sides, perused the materials on record and gone through orders of authorities below and also perused the copies of earlier orders of the Tribunal. It is an admitted fact that for the assessment year 2007-08, the Assessing Officer has allowed the claim of the assessee of deduction under section 80P(2)(a)(i) of the Act vide his order dated 19.03.2009. By order dated 28.10.2009, the ld. CIT passed order under section 263 of the Act quashing the assessment order on the ground that in view of introducing sub-section (4) to section 80P of the Act as per Finance Act, 2006 that the provisions of section 80P of the Act will not apply to any Co-operative Bank other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank, the deduction allowed to the assessee under section 80P(2)(a)(i) of the Act should be withdrawn. Against the order of the ld. CIT, by considering the RRB Act and Income Tax Act, the Tribunal vide its order dated 13.08.2010 in I.T.A. No.1941/Mds/2010, on merits, gave a concurrent findings that the assessee has to be treated as a co-operative society and would be*

eligible to claim deduction under section 80P(2)(a)(i) of the Act and the relevant portion of the order is reproduced as under:

> *"6. We have perused the orders and heard the rival contentions. It is not disputed that if the assessee is to be treated as a Co- operative society, then the deduction under section 80P(2) (a) (i) of the Act is available to it. The only dispute here is that assessee being a regional rural bank established under RRB Act, 1976, was to be treated as a co-operative bank or could be considered as a co-operative society No doubt, subsection (4) of section 80P introduced by Finance Act 2006 clearly takes a cooperative bank out of the purview of deduction available under 80P(2)(a)(i) of the Act Thus, if the assessee is a cooperative bank, it would not be eligible for such deduction Contention of the assessee is that in view of sections 22 arid 23 of the RRB Act, 1976, it was to be treated as a cooperative society and the said sections having not been overridden, it could only be treated as a co-operative society Further, relying on definition of Co-operative Bank" as given in the Banking Regulation Act, 1949, assessee submits that it is neither a State Co-operative Bank nor a Central Cooperative Bank nor a Primary Cooperative Bank, and therefore, not a co-operative bank at all. Whatever that may be, there is much strength in the argument of the assessee that it is to be treated as cooperative society in view of the provisions contained in RRB Act, 1976. If so, it would be eligible under section 80P(2)(a)(i) of the Act....."*

6.1 By following the above decision of the Tribunal dated 13.08.2010, in subsequent assessment years, the Tribunal has allowed the assessee to claim deduction under section 80P(2)(a)(i) of the Act. [I.T.A. Nos. 1088, 1091 & 1092/Mds/2012 for the assessment years 2007-08, 2008-09 & 2009-10 dated 23.08.2012; I.T.A. Nos. 572 & 595/Mds/2014 for the assessment years 2008-09 and 2010-11 dated 25.08.2014; I.T.A. No. 1831/Mds/2015 for the assessment year 2011-12 dated 18.03.2016 and I.T.A. Nos. 2319 & 2320/Mds/2016 for the assessment years 2012-13 & 2013-14 dated 30.11.2016].

6.2 For the assessment years under consideration, by following the decision of the Tribunal in I.T.A. Nos. 572 & 595/Mds/2014 for the assessment years 2008-09 and 2010-11 dated 25.08.2014 as well as I.T.A. No. 1831/Mds/2015 dated 18.03.2016, the ld. CIT(A) directed the Assessing Officer to allow the deduction under section 80P(2)(a)(i) of the Act. The ld.DR could not controvert the above findings of the Tribunal or filed any higher Court decision having modified or reversed the findings of the Tribunal. Respectfully following the above decision of the Coordinate Bench of the Tribunal, we find no reason to interfere with the orders of the ld. CIT(A) on this issue and thus, the ground raised by the Revenue is dismissed.

30. Further, in the absence of any contrary jurisdictional High Court decision, and in light of consistent past decisions of the Tribunal in the assessee's own case, no contrary view is warranted. Therefore, in the present facts and circumstances of the case, we do not find any infirmity in the order of the ld.CIT(A) in allowing the assessee's claim under Section 80P(2)(a)(i) of the Act. Thus, the related grounds raised by the Revenue are dismissed.

31. The next issue raised by the assessee in its cross objection is the interest arises out of refund of tax whether form part of the business income of the assessee. This issue is squarely covered by the decision of the Punjab & Haryana High Court in *CIT v. Punjab State Co-op Bank Ltd.* [(2010) 322 ITR 404] which has been held that such interest is compensatory in nature and partakes the character of the principal. The relevant extract is as follows:

> *"We are not impressed with the argument that the interest on refund of income-tax paid in excess was not attributable to the income derived from the business of banking within the meaning of section 80P(2)(a)(i) of the Act. Once the income-tax paid was derived from the business income then interest income would partake of the character of the principal amount because the interest paid to the assessee-respondent is compensation on account of deprivation of the use of money."*

32. Therefore, in our considered view and respectfully following the decision of the Hon'ble Punjab & Haryana High Court(supra) the interest on income tax refund is to be treated as income from business and hence eligible for deduction under Section 80P(2)(a)(i) of the Act. Thus, the ground of cross-objection raised by the assessee is allowed.

33. In respect of the ground raised by the assessee in its CO for re-computation of interest u/s.244A of the Act, we direct the Assessing Officer to recompute the interest u/s.244A of the Act, taking the date of remittance of TDS as the starting point till the date of credit of refund. Hence, this issue is remanded back to the AO for limited verification and correct computation as per law.

34. Since, the appeal of the revenue is dismissed based on the merits, we are not adjudicating the legal issue raised by the assessee in respect of the reopening of the assessment and kept open.

35. In the result, the appeal of the revenue is dismissed and the CO of the assessee is partly allowed.

Order pronounced in the court on 27th June, 2025 at Chennai.

Sd/-	**Sd/-**
(एस एस विश्वनेत्र रवि**)**	**(**एस**.** आर**.** रघुनाथा**)**
(S.S. VISWANETHRA RAVI)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य**/Judicial Member**	लेखा सदस्य**/Accountant Member**

चेन्नई/Chennai,
दिनांक/Dated, the 27th June, 2025
SP
आदेश की प्रतिलिपि अग्रेषित/Copy to:
1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF