

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN
(SMC)
BEFORE SHRI B P JAIN, Accountant Member**

ITA Nos 86 & 88/Coch/2014 (Asst Years 2009-10 & 10-11)

The Ezhupunna Service Coop Bank Ltd No.A 953 Ezhupunna PO Cherthala Alappuzha 688 548 PA N no.AAABT2580J	Vs	The Income Tax Officer Ward 4 Alappuzha
(Appellant)		(Respondent)

Assessee By	Sh K N Valsan
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA Nos 691 to 693/Coch/2013 (Asst Years 2007-08 to 2009-10)

The Kadannappalli Panappuzha Service Coop Bank Ltd Kadannappalli Kannur 670 501 PA N no.AAAAK6740Q	Vs	The Income Tax Officer Ward 1 Kannur
(Appellant)		(Respondent)

Assessee By	Sh George Thomas
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA No 694/Coch/2013 (Asst Year 2007-08)

The Mokeri Service Coop Bank Ltd No.F 1463 PO Pathayakunnu Kannur Dist PA N no AAMFM5490J	Vs	The Income Tax Officer Ward 2 Kannur
(Appellant)		(Respondent)

Assessee By	Sh George Thomas
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA No 696/Coch/2013 (Asst Year 2007-08)

The Chittariparama Service Coop Bank Ltd Chittariparamba Kannur 670 650 PA N no AABAC4156F	Vs	The Income Tax Officer Ward 2 Kannur
(Appellant)		(Respondent)

Assessee By	Sh George Thomas
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA No 697/Coch/2013 (Asst Year 2010-11)

The Kunhimangalam Service Coop Bank Ltd No. C 4682 Kunhimangalam Kannur 670 309 PA N no AAAAK6560A	Vs	The Income Tax Officer Ward 1 Kannur
(Appellant)		(Respondent)

Assessee By	Sh George Thomas
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA Nos 745 to 747/Coch/2013 (Asst Year 2007-08 to 2009-10)

The Madai Service Coop Bank Ltd Vengara PO Kannur 670 305 PA N no AAAJM1064A	Vs	The Income Tax Officer Ward 1 Kannur
(Appellant)		(Respondent)

Assessee By	Sh Vedanga R Prabhu
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ITA Nos 800 & 801/Coch/2013 (Asst Year 2008-09 & 2009-10)

M/s Kuttikkakam Service Coop Bank Ltd Vengara POKuttikkakam PO Kannur 670 663 PA N no AAAAK4614M	Vs	The Income Tax Officer Ward 1 Kannur
(Appellant)		(Respondent)

Assessee By	Sh Vedanga R Prabhu
Revenue By	Sh A Dhanaraj, SR DR
Date of Hearing	22 nd June 2016
Date of pronouncement	22 nd June 2016

ORDER**PER B P JAIN, AM:**

These are 13 appeals by different assessee arise out of the separate orders of the CIT(A) as per the details given below:

Sl.No.	ITA No.	Name of the assessee	CIT(A)'s order date
1-2	86 & 88/Coch/2014	The Ezhupunna Ser Coop Society Bank Ltd	03.12.2013
3-5	691 to 693/Coch/2013	The Kadannappalli Panappuzha Service Coop Bank Ltd	22.08.2013
6	694/Coch/2013	The Mokeri Service Coop Bank Ltd	30.08.2013
7	696/Coch/2013	The Chittariparama Service Coop Bank Ltd	30.08.2013
8	697/Coch/2013	The Kunhimangalam Service Coop Bank Ltd	30.08.2013
9-11	745 to 747/Coch/2013	The Madai Service Coop Bank Ltd	30.08.2013
12-13	800 & 801/Coch/2013	M/s Kuttikkakam Service Coop Bank Ltd	30.08.2013

2 Since common issue is involved in all these appeals; therefore, they were heard together and are being disposed off by this consolidated order.

3 The solitary issue that was argued is whether the CIT(A) is justified in confirming the action of the AO in denying the deduction u/s 80P(2) of the Act.

4 Briefly stated the facts of the case are as follows:

The assessee, in all these appeals, is a primary agricultural credit society registered under the Kerala Cooperative Societies Act, 1969. It is engaged in the business of providing agricultural credit to its members. The claim of deduction u/s 80P (2) was denied by the AO for the reason that the assessee is primarily engaged in the business of banking and in view of section 80P(4) of the Act, the assessee is not entitled to deduction u/s 80P(2) of the Act. The view taken by the AO was confirmed by the CIT(A).

4.1 The assessee being aggrieved is in appeal before us. The Id AR submitted that the issue is now covered in favour of the assessee by the recent judgment of the Honble Jurisdictional High Court in the case of The Chirakkal Service Cooperative Bank Ltd & others in ITA No.212 of 2013 (Judgment dated 15th February 2016).

4.2 The Id DR was unable to controvert the above submissions of the assessee.

5 I have heard the rival submissions and perused the material on record. The Hon'ble jurisdictional High Court in the case of The Chirakkal Service Cooperative Bank Ltd & others (supra) has held that the primary agricultural credit society registered under the Kerala Cooperative Societies Act, 1969 is entitled to the benefit of deduction u/s 80P(2). The Hon'ble High Court was considering the following substantial question of law:

a) Whether on the facts and in the circumstances of the case under consideration, the Tribunal is correct in law in deciding against the assessee, the issue regarding entitlement for exemption under section 80P, ignoring the fact that the assessee is a primary agricultural credit society?

5.1 In considering the above question of law, the Hon'ble High Court rendered the following findings:

"15. Appellants in these different appeals are indisputably societies registered under the Kerala co-operative societies Act, 1969, for sort, KCS Act and the bye-laws of each of them, as made available to this court as part of the paper books, clearly show that they have been classified as primary agricultural credit societies by the competent authority under the provisions of that Act. The parliament, having defined the term 'co-operative society' for the purposes of the BR Act with reference to, among other things, the registration of a society under any State law relating to co-operative societies for the time being; it cannot but be taken that the purpose of the societies so registered under the State Law and its objects have to be understood as those which have been approved by the competent authority under such State law. This, we visualise as due reciprocative legislative exercise by the Parliament recognising the predominance of decisions rendered under the relevant State Law. In this view of the matter, all the appellants having been classified as primary agricultural credit societies by the competent authority under the KCS Act, it has necessarily to be held that the principal object of such societies is to undertake agricultural credit activities and to provide loans and advances for agricultural purposes, the rate of interest on such loans and advances to be at the rate fixed by the Registrar of co-operative societies under the KCS Act and having its area of operation confined to a village, panchayat or a municipality. This is the consequence of the definition clause in section 2(oaa) of the KCS Act. The authorities under the IT Act cannot probe into any issue or such matter relating to such applicants.

16. The position of law being as above with reference to the statutory provisions, the appellants had shown to the authorities and the Tribunal that they are primary agricultural credit societies in terms of clause (cciv) of section 5 of the BR Act, having regard to the primary object or principal business of each of the appellants. It is also clear from the materials on record that the bye-laws of each of the appellants do not permit admission of any other co-operative society as member, except may be, in accordance with the proviso to sub-clause 2 of section 5(cciv) of the BR Act. The different orders of the Tribunal which are impeached in these appeals do not contain any finding of fact to the effect that the bye-laws of any of the appellant or its classification by the competent authority under the KCS Act is anything different from what we have stated herein above. For this reason, it cannot but be held that the appellants are entitled to exemption from the provisions of section 80P of the IT Act by virtue of sub-section 4 of that section. In this view of the matter, the appeals succeed.

17. In the light of the aforesaid, we answer substantially question 'A' in favour of the appellants and hold that the Tribunal erred in law in deciding the issue regarding the entitlement of exempt income under section 80P against the appellants. We hold that the primary agricultural credit societies, registered as such under the KCS Act; and classified so, under that Act, including the appellants are entitled to such exemption."

5.2 In all these cases before me, the certificate of registration of the assessee under the Kerala Cooperative Societies Act and the bye-laws are placed on record. It is clear from the perusal of the same that the assessees, in all these cases, are primary agricultural credit societies and providing agricultural credit facilities to its members. The Hon'ble Jurisdictional High Court, in the above cited judgment has held that such societies are entitled to the benefit of deduction u/s 80P(2) of the Act. In view of the above findings of the Hon'ble Jurisdictional High Court (supra), I allow the appeals of all the assessees mentioned above. It is ordered accordingly.

6 In the result, the appeals filed by all the assesseees are allowed.

Order pronounced in the open Court on 22nd day of June 2016

Sd/-
(**B P JAIN**)
Accountant Member

Cochin: Dated 22nd June 2016

Raj*

Copy to:

1. Appellant –
2. Respondent –
3. CIT(A)
4. CIT,
5. DR
6. Guard File

By order

Assistant Registrar
ITAT, COCHIN