

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN "SMC" BENCH, COCHIN**

**Before Shri George George K, Judicial Member**

| ITA No.                        | Appellant                             | Respondent                             | Asst. Year                            | PAN         |
|--------------------------------|---------------------------------------|--|---------------------------------------|-------------|
| 431 to<br>433/Coch/<br>2017    | ITO, Ward -<br>1 Kasargod             | M/s.Edanad-<br>Kannur SCB Ltd.         | 2007-2008,<br>2012-2013,<br>2013-2014 | AAAAT6653P  |
| 567/Coch/2017                  | ITO, Ward-<br>2, Kannur               | M/s.Kolavalloor<br>SCB Limited         | 2013-2014                             | AACAk2696M. |
| 561/Coch/2017                  | ITO, Ward-<br>3, Kannur               | Peralassery SCB<br>Limited             | 2011-2012                             | AAAAP7441H. |
| 525 to<br>527/Coch<br>/2017    | ITO, Ward<br>2(3), Calicut            | M/s.Kakkodi SCB<br>Limited             | 2007-2008,<br>2008-2009,<br>2009-2010 | AABAK5108R. |
| 560/Coch/2017                  | ITO, Ward-4<br>Kannur                 | M/s.Pattuvam<br>SCB Limited            | 2012-2013                             | AACAP7592F. |
| 410/Coch/2017<br>411/Coch/2017 | ITO, Ward-2<br>Tirur,<br>Malapuram    | M/s.Vettikattiri<br>SCB Limited        | 2008-2009,<br>2013-2014               | AABAV4369D. |
| 412/Coch/2017<br>413/Coch/2017 | ITO, Ward-<br>2, Tirur,<br>Malapuram. | M/s.Vazhikkadavu<br>SCB Limited        | 2008-2009 &<br>2013-2014              | AACAT1044N. |
| 566/Coch/2017                  | ITO Ward-2<br>Kannur                  | M/s. The<br>Panniyannur SCB<br>Limited | 2013-2014                             | AACAP8265B  |
| 426 to<br>428/Coch/2017        | ITA Ward-1<br>Kasargod                | M/s.Majibail SCB<br>Limited            | 2007-2008,<br>2008-2009,<br>2013-2014 | AACAM7615A. |
| 429 & 430/<br>Coch/2017        | ITO, Ward-1<br>Kasargod               | The Bayar SCB<br>Limited               | 2011-2012 &<br>2012-2013              | AABAT7614D. |

Appellant by : Sri. A.Dhanaraj, Sr.DR

Respondents by

Sri. T.M.Sreedharan : For M/s.Kolavalloor SCB Ltd.  
For M/s.Peralassery SCB Ltd.  
For The Panniyannur SCB Ltd.

Smt.Parvathy Amma : For M/s. Kakkodi SCB Ltd.  
For M/s. Pattuvam SCB Ltd.

Sri. Arun Raj S : For M/s.Edanad-Kannur SCB Ltd.  
For M/s.Majibail SCB Ltd.  
For The Bayar SCB Ltd.

Ms.Mekhala M.Benny : For M/s.Vettikattiri SCB Ltd.  
For M/s.Vazhikkadavu SCB Ltd.

|                              |                                    |
|------------------------------|------------------------------------|
| Date of Hearing : 04.01.2018 | Date of Pronouncement : 10.01.2018 |
|------------------------------|------------------------------------|

## **ORDER**

These 19 appeals filed by the Revenue are directed against different orders of the CIT(A) concerning different assessees.

2. In the above cases, the Revenue has raised a common issue, viz., whether the assessees are entitled to the benefit of section 80P deduction. The CIT(A) had allowed the claim of deduction u/s 80P(2) of the Income-tax Act by following the judgment of the Hon'ble jurisdictional High Court in the case of *The Chirakkal Service Co-operative Bank Limited & Ors. [(2016) 384 ITR 490 (Ker.)]*. Since common issue is raised in these appeals, they are heard together and are being disposed off by this consolidated order.

3. I shall first adjudicate the Revenue's appeal in the case of M/s.Kakkodi Service Co-operative Bank Limited, concerning assessment years 2007-2008 to 2009-2010 in ITA Nos.525 to 527/Coch/2017. The decision rendered therein would have application in other cases as well.

### **ITA Nos.525 to 527/Coch/2017**

4. The brief facts in relation to the above cases are as follow:-

4.1 The assessee is a co-operative society registered under the Kerala Co-operative Societies Act, 1969. For the assessment years 2007-2008, 2008-2009 and 2009-2010, the details of returns filed by the assessee-society are as follow:-

| Asst. Year | Date of issue of notice u/s 148 | Date of filing of return | Income from business | Income from other sources | Gross total income | Deduction claimed u/s 80P (Rs.) | Income Returned |
|------------|---------------------------------|--------------------------|----------------------|---------------------------|--------------------|---------------------------------|-----------------|
| 2007-08    | 21.03.2014                      | 17.09.2014               | 2,12,695             | 1,04,198                  | 3,16,893           | 3,16,893                        | Nil             |
| 2008-09    | 08.03.2013                      | 29.05.2013               | 25,157               | 2,20,041                  | 2,45,198           | 2,45,198                        | Nil             |
| 2009-10    | 14.02.2014                      | 17.09.2014               | 6,89,724             | Nil                       | 6,89,724           | 6,89,724                        | Nil             |

4.2 While completing the assessment, the Assessing Officer has disallowed the claim of deduction u/s 80P of the Income-tax Act, for all the three years. The reasoning of the A.O. for disallowing the claim of deduction u/s 80P of the Act are as follow.

(i) The provisions of section 80P(4) of the Income-tax Act applies only to a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank and the same will not apply to any co-operative bank. (para 5.1 of the assessment order for Asst.Year 2009-2010).

(ii) The primary object or principal business transacted is banking business. The assessee bank is doing banking business and carrying out various activities which are listed out in para 5.5, page 4 of the assessment order for A.Y. 2009-2010.

(iii) The assessee was accepting deposits from members as well as non-members and the amounts were used for lending or investment. According to the Assessing Officer, all the three conditions for becoming a primary co-operative bank stand complied with in the case of the assessee. Hence, it will fall within the provisions of section 80P(4) and is not eligible for deduction u/s 80P(2)(a)(i) of the Income-tax Act.

5. Aggrieved by the assessment orders denying the benefit of deduction u/s 80P(2) of the Act, filed appeals before the first appellate authority. The CIT(A) followed the ratio of the judgment of the Hon'ble High Court of Kerala in the case of The Chirakkal Service Co-operative Bank Ltd. and Others (2016) 384 ITR 490 (Kerala) wherein it has been held that the primary agricultural credit society registered under the Kerala Co-operative Societies Act, 1969 is entitled for deduction u/s 80P(2) of the Income-tax Act. The learned CIT(A) has allowed the appeals vide a common order dated 12.06.2017 and directed the Assessing Officer to grant deduction u/s 80P of the Income-tax Act to the assessee-society.

6. The Revenue being aggrieved has filed appeal before the Tribunal. The gist of the ground raised by the Revenue before the Tribunal are as follow:-

(i) In view of the judgment of the Hon'ble Supreme Court dated 8<sup>th</sup> August, 2017 in the case of Citizens Co-operative Society Ltd. whether the order of the learned Commissioner

(Appeals) is against law and facts of the present case? (Para 1 of the grounds of the department)

(ii) The Commissioner of Income Tax (Appeals) relying on the decision of the Hon'ble jurisdictional High Court in the case of The Chirakkal Service Co-operative Bank Ltd. had held that the assessee is eligible for deduction u/s 80P solely on the basis that it has been registered and classified as Primary Agricultural Credit Society by the Competent Authority under the Kerala Co-operative Societies Act, whereas the Hon'ble Supreme Court in the case of Citizens Co-operative Society had taken into consideration the activities of the assessee society and not relied only on the Certificate of registration. (Para 2 of the grounds of department)

(iii) Whether the CIT(Appeals) is right in law taking to consideration the facts and circumstances of the case, especially pursuant to the judgment of the Hon'ble Supreme Court in Citizens Co-operative Society holding that the assessee-society could not be treated as a co-operative society meant only for its members. (Para 3 of the grounds of the department)

(iv) The Hon'ble Supreme Court in the case of Citizens Co-operative Society had observed that the depositors and borrowers in the appellant cooperative society are distinct and therefore, the activities of the assessee are that of a finance

business and cannot be termed as those of a co-operative society. (Para 4 of the grounds of the department)

(v) The learned CIT(Appeals) ought to have seen that the Hon'ble Supreme Court in the case of Sabarkantha Zilla Kharid Vechan Sangh Ltd. reported in 203 ITR 1027 had held that eligible deduction under section 80P should be limited to the profits generated from agricultural activities alone performed by such assessees. (Para 5 of the grounds of the department)

(vi) The learned CIT(Appeals) ought to have seen that the above Apex Court decision is in sharp contrast to the deduction of the Hon'ble Kerala High Court in the case of Chirakkal Co-operative Bank Ltd. (Para 6 of the grounds of appeal).

(vii) The judicial ratios in 135 ITR 355 (Mad.) and 234 ITR 301 (Ker.) hold that carte blanche deduction u/s 80P are not available merely on the basis of professed agricultural credits on the basis of registration and classification. In view of the above, is not the decision of the CIT (Appeals) without merits? (Para 7 of the grounds).

(viii) The prayer of the department is that in view of the above, the order of the CIT(Appeals) may be set aside. (Para 8).

6.1 Apart from relying on the above grounds, the learned Departmental Representative has also filed a brief written submission and also filed a paper book comprising of 41 pages enclosing the amendment to the Kerala Co-operative Societies Act, 2010 and objects and recommendations of Vaidyanathan Committee, etc. The gist of the written submission was that the assessee banks in the above cases had accepted deposits from non-members and was providing agricultural loan only for a nominal sum. In other words, it was submitted that out of the total loan disbursement, loan given for non-agricultural purposes was constituting major portion. The learned DR has also referred to Kerala Legislative Assembly notification for Kerala Co-operative Societies Act, wherein it is stated if the principal object for providing agricultural loans to the Co-operative Society members are not fulfilled, such societies would lose all characteristics of a primary agricultural credit society. The learned DR has also referred to the Vaidyanathan Committee and had enclosed relevant pages of the report of Committee to content that Co-operative Societies was accepting deposits from non-members and were acting like any other normal banks under the Reserve Bank of India regulations. In conclusion, it was submitted by the learned DR that the assessee-banks in view of the provisions of section 80P(4) of the Income-tax Act and the amendment to section 2(iv) of the Kerala Co-operative Societies Act, 2010, is not entitled to the benefit of claim of deduction u/s 80P(2) of the Act. It was further contended by the learned DR that the Hon'ble Apex Court in the case of

Citizens Co-operative Society Limited reported in 397 ITR 1 had categorically held when the assessee is accepting deposits and disbursing loans to general public, such Societies are not entitled to the benefit of section 80P(2) of the Income-tax Act. It was further submitted by the learned DR that the Hon'ble Supreme Court had held accepting FD's from 'nominal members' or disbursing loans to 'nominal members' of the Co-operative Society is as good as accepting deposits and disbursing of loans to general public. Therefore, it was submitted by the learned DR that the assessee-societies are not entitled to the deduction u/s 80P(2) of the Income-tax Act.

7. The learned AR, on the other hand, submitted that it is an undisputed fact that the assessee is a primary agricultural credit society and is registered as such under the Kerala Co-operative Societies Act. It was contended that the Hon'ble jurisdictional High Court in the case of *Chirakkal Service Co-operative Bank Limited & Ors. (supra)* had categorically observed that primary agricultural credit society registered as such under Kerala Co-operative Societies Act, would be entitled to exemption u/s 80P(2) of the Income-tax Act. It was further argued by the learned AR that the judgment of the Hon'ble Apex Court in the case of Citizens Co-operative Society Ltd. (supra) had not overruled the dictum laid down by the Hon'ble jurisdictional High Court. The learned Counsel stated that the judgment of the Hon'ble Apex Court does not have any application to the instant case, since the



disallowance of section 80P in the case considered by the Hon'ble Supreme Court was due to violation of the relevant provisions of the State Act. Further, it was contended that the category of "nominal members" in the real sense are not members because there is no provision in the State Act to admit a person as a "nominal member", and it is in this context there is a violation of the Co-operative Societies Act to the concerned State. It was submitted that whereas the Kerala Co-operative Societies Act specifically provides for admission of nominal members and providing credit facilities to such members. The learned Counsel vehemently argued that the assessee is not doing any banking business. It was submitted that the difference between primary agricultural credit society and bank has been clearly brought out in various judicial pronouncements. It was submitted that the banking business means accepting for the purpose of lending or investment of deposits of money from the public repayable on demand or otherwise, which is withdrawable by cheque, draft etc. For carrying out the banking business licence from the Reserve Bank of India is mandatory. It was submitted that the assessee-society does not accept money from the public for the purpose of lending or investment. The acceptance of money is only from members. It was contended that as such the activity of the society does not fall within the purview of Co-operative Bank and the society cannot be categorized as a Co-operative Bank.

8. I have heard the rival submission and perused the material on record. The undisputed facts are that the assessee in these cases are all primary agricultural credit society and they are registered as such under the Kerala Co-operative Societies Act. The Hon'ble jurisdictional High Court in the case of *Chirakkal Service Co-operative Bank Limited & Ors. (supra)* had categorically held in para 17 page 14 of the judgment that when a primary agricultural credit Society is registered as such under the Kerala Co-operative Societies Act, 1969, such society is entitled to the benefit of deduction u/s 80P(2) of the Income-tax Act. 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?"*

8.1 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 cooperative 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 thing 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 visualize as due reciprocative legislative exercise by the Parliament recognizing 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 8OP of the IT Act by virtue of sub-section 4 of that sect; on. In this view of the matter, the appeals succeed.*

*17. In the light of the aforesaid, we answer substantial question: `A' in favour of the appellants and hold that the Tribunal erred in law in deciding the issue regarding the entitlement of exemption under section BOP 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."*

8.2 In the instant case, the assessee's are all primary agricultural credit society registered under the Kerala Cooperative Societies Act, 1969. The certificate has been issued by the Registrar of Cooperative Societies to the above said effect and the same is on record. The Hon'ble High Court, in the case cited supra, had held that primary agricultural credit society, registered under the Kerala Cooperative Societies Act, 1969, is entitled to the benefit of deduction u/s 80P(2). Since there is a certificate issued by the Registrar of Cooperative Societies, stating that the assessee is a primary agricultural credit society, going by the judgment of the Hon'ble jurisdictional High Court, assessee is entitled to deduction u/s 80P(2). However, the Revenue's contention is that the Hon'ble Apex Court in the case of Citizens Co-operative Society Ltd. (supra) categorically decided when deposits are received from general public / nominal members or loans are disbursed to general public / nominal members, the assessee would be doing the business of banking and therefore, would not be entitled to deduction u/s 80P(2) of the Income-tax Act. In the context of the submission made by the Revenue let me examine whether the judgment of the Hon'ble

Apex Court in the case of Citizens Co-operative Society Ltd. (supra) has application to the facts of the present case.

9. The Hon'ble Apex Court judgment in the case of Citizen Co-operative Society (supra) Ltd. was rendered in the context of eligibility of a Credit Co-operative Society for deduction under section 80 P of the Act. The Apex Court, referring to the specific facts of the case held that the assessee therein is not entitled for deduction under section 80P of the Income-tax Act. In the aforesaid case, the Hon'ble Apex Court was not dealing with a case of eligibility of a Primary Agricultural Credit Society for deduction under section 80P of the Income-tax Act. The Hon'ble Supreme Court at Para 23 of the aforesaid judgment had emphasized that even after the amendment made to the provisions of section 80 P of the Act by insertion of section 80P(4) of the Income-tax Act, the Primary Agricultural Credit Society is eligible for deduction under section 80 P of the Act.

9.1 The assessee society in the case considered by the Hon'ble Supreme Court was established on 31-5-1997 and was registered under section 5 of the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995. Thereafter as the operations of the assessee had increased manifold and spread over states of Erstwhile, Andhra Pradesh, Maharashtra and Karnataka, the assessee-society got itself registered on 26.07.2005 under the Multi State Co-operative Societies Act, 2002 (MACSA)

9.2 The Hon'ble Apex Court in the aforementioned case specifically took note of the factual findings of the assessing officer (which was stated in para 15 of the judgment) referring to the bye laws and the provisions of Mutually Aided Co-operative Societies Act, 1995. The assessing officer was of the view that the assessee therein cannot admit 'nominal members' and most of the deposits were taken from such category of person (as they were not members as per the provisions referred). The Apex Court in para 25 of the Judgment has pointed out that the main reason for disentitling the assessee from getting the deduction provided under section 80 P of the Act is not sub-section (4) of the Act. On the contrary, the Hon'vble Apex Court held that the Credit Co-operative Society was not entitled for deduction u/s 80P of the Act for the reason of categorical finding of the A.O. that the activities of the assessee are in violation of the Provisions of the MACSA under which it is formed as the substantial deposits were from 'nominal members' who are actually non-members as per the provisions of law referred. The Hon'ble Apex Court specifically took note of the fact that the assessee therein has carved out a category of 'nominal members' who are infact not the members in the real-sense. Therefore the deposits received from the carved out category viz nominal members who are not the members as per the provisions of the law referred to therein and without the permission of the Registrar of Societies was held to be violative of the provisions and were treated/ proceeded with as deposits from the Public.

In other words, in the case before the Hon'ble Supreme Court, the finding on the principle of mutuality was arrived at interalia; on the factual finding that the assessee was receiving deposits mostly from a carved out category of member viz `nominal member' who are not members as per the provisions of law referred,. and that most of the business of the assessee therein was with this carved out category of person and also granting loans to public and without the approval from the Registrar of the Societies.

9.3 As far as the Kerala Co-operative Societies Act which is applicable to the present cases are concerned, the definition of a 'member' as provided in Section 2(1) of the Kerala Co-operative Societies Act includes a nominal member. Section 2 (1) of the said Act is as follows:

*"Member" means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance with this Act, the Rules and the Bye law and includes a nominal or associate member"*

9.4 The `normal member' is defined under 2(M) of the Kerala Co-operative Societies Act, 1969, which reads as follow:-

*"(m) `nominal or associate member' means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the bye-laws;"*

9.5 Therefore, in the present cases, the nominal members are members as provided in law and deposits from such nominal members cannot be considered or treated as from the non-members or from public as was noted by the Apex Court judgment cited supra.

9.6 In this context, it is relevant to mention that the Hon'ble Supreme Court in the case of U.P.Co-operative Cane Union v. Commissioner of Income-tax (1999) 237 ITR 574 (SC)-para 8 of the judgment has observed as under:-

*"8. The expression "members" is not defined in the Act. Since a co-operative society has to be established under the provisions of the law made by the State Legislature in that regard, the expression "members" in section 80P(2)(a)(i) must, therefore, be construed in the context of the provisions of the law enacted by the State Legislature under which the co-operative society claiming exemption, has been formed. It is, therefore, necessary to construe the expression "members" in Section 80P(2)(a)(i) of the Act in the light of the definition of that expression as contained in Section 2(n) of the Co-operative Societies Act."*

9.7 The Bombay High Court in Jalgaon District Central v. UOI (2004) 265 ITR 423 (Bom) in the light of the above Supreme Court judgment had held that nominal member is also member under the Maharashtra Co-operative Societies Act and entitled for benefits under section 80P. [Para 17 to 20 of the judgment], as under:-

*"17. In case of M/s U.P.Co-op. Cane Union Federation Ltd., Lucknow (cited supra), the Supreme Court has held that the expression "Member" is not defined in the Income Tax Act. Since the Co-operative Society has to be established under the provisions of law made by the State Legislature in that regard, the*



*expression "Member" in Section 80P(2)(a)(i) must, therefore, be construed in the context of the provisions of law enacted by the State Legislature under which the co-operative society claiming exemption has been formed. The Supreme Court has further observed that it is necessary to construe the expression "Member" in Section 80P(2)(a)(i) of the Act in the light of the definition of "Member" given under Section 2(n) of the U.P.Co-operative Societies Act, 1965.*

*18. The definition of "Member" given in Section 2(19) of the Maharashtra Co-operative Societies Act, 1960 takes within its sweep even a nominal member, associate member and sympathizer member. There is no distinction made between duly registered member and nominal, associate and sympathizer member.*

*19. In the case of K.K.Adhikari (cited supra), Division Bench of this Court has held that the definition of a Member under Section 2(19) of the Maharashtra Co-operative Societies Act, 1960 includes a nominal member or a sympathizer member. It is further held that notwithstanding the fact that a nominal member does not enjoy all the rights and privileges which are available to an ordinary member, his status is that of a member as defined in Section 2(19) of the Act.*

*20. Division Bench of this Court in the case of The Commissioner of Income Tax, Nasik (cited supra) has also taken a similar view that the definition of "Member" under section 2(19)(a) of the Maharashtra Co-operative Societies Act, 1960 includes a nominal member. It is further held by the Division Bench that there is nothing in Section 80P(2)(iii) of the Income Tax Act to the contrary."*

9.8 As per section 3 of the Banking Regulation Act, 1949 the provisions of Banking Regulation Act shall not apply to Primary Agricultural Credit Societies. The explanation to

section 80P(4) states that 'Primary Agricultural Credit Society' and 'Co-operative Bank' will have the same meaning as provided in Part V of the Banking Regulation Act, 1949. The explanation provided after clause (ccvi) of section 5 r.w.s 56 of the Banking Regulation Act specifically provides that if any dispute arises as to the primary object or principal business of any co-operative society referred to in clauses (cciv), (ccv) and (ccvi), a determination thereof by the Reserve Bank shall be final. The Reserve Bank of India, which is the competent authority as per the Banking Regulation Act, treats assessee society and similar societies as only "Primary Agricultural Credit Society" not falling within the ambit of Banking Regulation Act. The Reserve Bank of India has given letters to the societies similar to assessee stating that they are Primary Agricultural Credit Societies and therefore in terms of section 3 of the Banking Regulation Act are not entitled for banking license; (Copies of such letter from RBI are placed on record).

9.9 That being the case, the assessing officer was not competent and did not possess the jurisdiction to resolve / decide the issue as to whether the assessee was a 'Primary Agricultural Credit Society' or a 'Co-operative bank', within the meaning assigned to it under the provisions of the Banking Regulation Act and to take a contrary view especially in view of the Explanation provided after the clause (ccvi) of section 5 r.w.s Section 56 of the Banking Regulation Act.

9.10 In view of the aforesaid reasoning, I hold that the judgment of the Hon'ble Apex Court in Citizen Co-operative Society Ltd. is not applicable to the facts of the present case. According to me, the judgment of the Hon'ble jurisdictional High Court is identical to the facts of the present cases and is squarely applicable. Therefore, I hold that the CIT(A) has correctly allowed the claim of deduction in the above cases and I uphold the orders of the CIT(A). It is ordered accordingly.

10. In the result, these appeals filed by the Revenue are dismissed.

Order pronounced on this 10<sup>th</sup> day of January, 2018.

Sd/-  
(George George K.)  
**JUDICIAL MEMBER**

Cochin ; Dated : 10<sup>th</sup> January, 2018.  
Devdas\*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The Pr.CIT, Kozhikode/JCIT, Kannur.
4. CIT(A), Kozhikode.
5. DR, ITAT, Cochin  
Guard file.
- 6.

BY ORDER,

(Asstt. Registrar)  
**ITAT, Cochin**