IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

ITA.No. 137 of 2011 ( )

ITA 506/COCH/2010 of I.T.A.TRIBUNAL, COCHIN BENCH

APPELLANT/RESPONDENT :
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THE COMMISSIONERE OF INCOME TAX,
TRIVANDRUM.

BY ADVS.SRI.P.K.R.MENON,SR.COUNSEL, GOI(TAXES)
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

RESPONDENT/APPELLANT :
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KERALA STATE CO-OPERATIVE AGRICULTURAL
RURAL DEVELOPMENT BANK LTD, THIRUVANANTHAPURAM
PIN-695001.

BY ADV. SRI.GEORGE POONTHOTTAM,SC,
BY ADV. SRI.ANIL D. NAIR

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 23/9/2015, THE COURT ON 26-11-2015 DELIVERED THE FOLLOWING:

bp

ITA.No. 137 of 2011 ( )

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE A:	**COPY OF THE ORDER U/S. 143(3) OF THE INCOME TAX ACT DT 22/12/2009.**
ANNEXURE B:	**COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS) DT 30//2010.**
ANNEXURE C:	**COPY OF THE ORDER OF THE APPELLATE TRIBUNAL DT 23/2/2011.**

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

Thottathil B. Radhakrishnan

&

Babu Mathew P. Joseph, JJ.

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I.T.A.No.137 of 2011

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Dated this the 26th day of November, 2015

Judgment

Thottathil B.Radhakrishnan, J.

1. The question whether the respondent falls under sub-section 4 of Section 80P of the Income Tax Act stands answered against it as per judgment delivered today in ITA.No.103 of 2011.

2. The issue raised in this appeal by the Revenue is as to whether, it having held that the assessee is not a primary agricultural credit society or a primary co-operative agricultural and rural development bank, the Income Tax Appellate Tribunal was justified in holding that the assessee is entitled to deduction in terms of Section 80P(2)(a)(i) of the IT Act.

3. The learned senior counsel appearing for the Revenue argued that the assessee having been

rightly found to be not a primary agricultural credit society or a primary co-operative agricultural and rural development bank, it is not entitled to deduction in terms of Section 80P (2)(a)(i) of the IT Act. He also pointed out that the findings to the contrary as rendered by the Income Tax Appellate Tribunal are inconsistent and militate against the other findings in the impugned order and are wholly unintended by the Legislature and that such dichotomy is contrary to law and hence, perverse.

4. Per contra, the learned counsel for the assessee argued that the Tribunal had, in so far as the issue involved in this appeal is concerned, held after adverting to the facts and figures that the matter requires to be remitted to the file of the Assessing Officer for consideration of the matter and adjudication of such issues.

5. The contents of the order of the Tribunal in so far as they relate to the matter in issue in this appeal, categorically show that the findings

rendered by the Tribunal do not warrant any interference, more particularly when the case does not involve any substantial question of law having regard to the contents of the first appellate order issued by the Commissioner of Income Tax (Appeals) and the manner in which it stands confirmed by the Tribunal to the extent it relates to the issues sought to be raised in this appeal.

6. For the aforesaid reasons, we do not find any merit in this appeal by the Revenue. No substantial question of law arises for decision and the appeal under Section 260A at the instance of the Revenue as against the impugned order of the Tribunal is not sustainable.

In the result, this appeal is dismissed. No costs.

Thottathil B. Radhakrishnan, Judge

Babu Mathew P. Joseph, Judge

Sha/