IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

ITA.No. 249 of 2014

AGAINST THE ORDER IN ITA 20/2014 of I.T.A.TRIBUNAL, COCHIN BENCH DATED 31-07-2014

APPELLANT IN ITA:

CHERTHALA TOWN SERVICE CO-OPERATIVE BANK LTD NO 1345,
CHERTHALA.P.O, CHERTHALA, ALAPPUZHA-688 524
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.K.RAMANATHAN

RESPONDENT IN ITA:

THE INCOME TAX OFFICER,
WARD-1, ALAPPUZHA.

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

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ITA.No. 249 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEUXRE A1: A TURE COPY OF THE BYE LAWS OF THE APPELLANT SOCIETY.

ANNEXURE A2: A TRUE COPY OF THE CERTIFICATE DATED 3.12.2009 ISSUED BY THE ASSISTANT REGISTRAR, CO-OPERATIVE SOCIETIES, (GENERAL), CHERTHALA.

ANNEXURE A3: A TRUE COPY OF THE ASSESSMENT ORDER FOR THE FINANCIAL YEAR 2007-2008 DATED 24.12.2009.

ANNEXURE A4: A TRUE COPY OF THE ORDER ISSUED BY THE COMMISSIONER OF INCOME TAX APPEALS IN ITA NO.29/ALP/CIT(A) IV/09-10 DATED 11.11.2013.

ANNEXURE A5: A CERTIFIED COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL IN ITA NO.20/COCH.2014 DATED 31.7.2014.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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I.T.A.No.249 of 2014

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Dated this the 18th day of August, 2015

JUDGMENT

Antony Dominic, J.

The appellant is a Primary Agricultural Credit Society registered under the Kerala Co-operative Societies Act. In the assessment year 2007-2008, the appellant had earned interest income of an amount of Rs.38,11,500/- from its fixed deposit in the District Treasury, Alappuzha. According to the appellant, said deposit was made out of the surplus funds and hence it claimed that the income derived from the investment should be regarded as an essential part of its banking activity. The Assessing Officer held that the income cannot be regarded as an essential part of the banking activity and on that basis, rejected the claim of the appellant for exemption under Section 80P of the Income Tax Act. The Assessing Officer also held that the interest for unutilised funds invested in banks other than Co-operative banks is not eligible for exemption under Section 80P of the Income Tax Act.

2. The assessment order was confirmed by the First Appellate Authority. Appeal was filed before the Tribunal. The said appeal was considered along with a batch of appeals filed by other Co-operative Societies and by the impugned common order, the Tribunal held that the appellant is not entitled to exemption under Section 80P of the Income Tax Act. It is aggrieved by this order of the Tribunal in ITA 20/14 that the appellant has filed this appeal.

3. We heard the counsel for the appellant and learned Senior Counsel appearing for the respondents.

4. Having heard both sides and also going through the order passed by the Tribunal, we notice that the Tribunal has only considered whether the appellant is entitled to exemption under Section 80P and the Tribunal did not go into the main case of the appellant that it having derived interest income from the investment which should be regarded as an essential part of its banking activity, entitling it for exemption from tax. The Tribunal having not considered the case of the appellant in the proper perspective, we feel that the matter has to be remitted to the Tribunal.

5. Accordingly, setting aside the order of the Tribunal in ITA 20/14, the matter is remitted to the Tribunal with a direction to hear the appeal afresh and pass orders thereon in accordance with law.

Appeal is disposed of.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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