(2007) 02 MAD CK 0226

In the Madras High Court

Case No : T.C. (A) No''s. 133 to 138 of 2007

Commissioner of Income Tax — APPELLANT

Vs

Modern Eng. Constructions Co-operative Society Ltd. — RESPONDENT

Date of Decision : 26-02-2007

Acts Referred:
Income Tax Act, 1961 — Section 80P(2)

Citation : (2008) 306 ITR 8

Hon'ble Judges : P.D. Dinakaran, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The above tax case appeals are directed against the common order of the Income Tax Appellate Tribunal dated February 2, 2006 in I.T.A. Nos. 1807 to 1812/Mds/2002 for the assessment years 1993-94 to 1998-99.

The Revenue is the appellant. The assessee is a co-operative society engaged in the business of civil construction and repair works. The assessee advanced loans to its members and received interest therefrom. The assessee had claimed deduction u/s 80P(2)(a)(i) of the Income Tax Act and the Assessing Officer negatived the claim of the assessee as the primary objective of the assessee is not that of the credit society that is engaged in the business of banking. On appeals, by the assessee, the Commissioner of Income Tax (Appeals), following its earlier orders in the assessee''s own case, allowed the appeals. The said order of the Commissioner of Income Tax (Appeals), on appeals by the Revenue, was confirmed by the Tribunal.

2. Exasperated, the Revenue has preferred these appeals by raising the following substantial questions of law:

(i) Whether, in the facts and under the circumstances of the case, the Appellate Tribunal was right in holding that the assessee who is engaged in the business of civil construction and repair works is eligible for the benefit of Section 80P(2)(a)(i) in respect of the interest received from members?

(ii) Whether, in the facts and under the circumstances of the case, the Appellate Tribunal was right in holding that the assessee is eligible for exemption u/s 80P(2)(a)(i) when it is not a cooperative society engaged in the business of banking or providing credit facilities to its members?

3. It is fairly conceded by learned standing Counsel appearing for the Revenue that the issues raised in the above questions of law are squarely covered against the Revenue by the judgment of this court dated December 12, 2005, made in T.C. No. 54 of 2001 Commissioner of Income Tax Vs. Salem Co-operative Sugar Mills Ltd., wherein the Division Bench of this Court, taking note that the prime object of the assessee therein is running a sugar mill, and that the objects Clause and/or the business activities of the assessee therein is also granting loans and advances to the members, held that the assessee therein is entitled to exemption u/s 80P(2)(a)(i) of the Income Tax Act.

4. In view of the above settled proposition of law, we hold that the respondent-co-operative society is eligible for the benefit of Section 80P(2)(a)(i) of the Income Tax Act in respect of the interest received from members. Accordingly, finding no substantial question of law arises for our consideration, the appeals stand dismissed.

