

KERALA COOPERATIVE CONSUMERS' FEDERATION
LTD. VS COMMISSIONER OF INCOME TAX

[C.A. NO. 15430/96, 2354-55/96]

COURT: SUPREME COURT OF INDIA

CITATION: [C.A. NO. 15430/96, 2354-55/96]

BENCH: S.C. AGRAWAL, S.P. KURGUAR, S. RAJENDRA BABU JJJ.

DELIVERED ON: 13 MAY, 1998

**RELEVANT SECTION/ARTICLE: Section 80P (2) (a) (iii), Section 80-92 (a) (iii)
OF THE INCOME TAX, 1961**

FACTS OF THE CASE:

- 1) The case was filed by the Kerala State Cooperative Marketing Federation Ltd. The society is registered under Kerala Co- Operative Societies Act. This society is an assessee under the Income Tax Act, 1961.
- 2) The assessee which is considered as an apex society bought cashew from the primary cooperative societies who are its members. The complete buys made by it were to the degree of Rs. 33,23,71,339 out of which the buys from member societies was in an amount of Rs. 95,02,851. The claim for exception of this sum was made on the premise that it advertised agricultural produce of its members.
- 3) The claim was rejected by Income Tax Officers. On the appeal, Commissioner of Income Tax (Appeals) took the view that the assessee is qualified for exception under the aforementioned provisions in regard of the income from acquisition of cashew nuts

from the member societies. Anyway he clarified that the said exception would not be relevant for purchases or supplies made by primary societies or service societies which were not members from the assessee society.

- 4) The issue was conveyed further in second appeal by the Department to the Appellate Tribunal which took the view that the assessee would be qualified for exception under the aforementioned provisions of the Act. The assessee then filed a second appeal claiming that the whole profit and gains of the business was entitled to deduction under Section 80-92 (a) (iii) of the Act. The appeal was dismissed by the tribunal.

ISSUES RAISED:

- ❖ Whether the assesses under the Income Tax Act which are Co-operative Societies are entitled to deduction under Section 80P (2) (a) (iii) of the Income Tax Act, 1961 in resort of the purchases made from member societies?

RULE OF LAW WHICH APPLIES:

The whole of the amount of profits attributable to the marketing of agricultural produce grown by the members of society is deductible under Section 80P (2) (a) (iii).

APPLICATION OF RULE OF LAW WHICH APPLIES:

The examination made by the Delhi High Court is concerning lexicographical significance of the outflow 'of' happening in the applicable arrangement, the utilization of the articulation in the specific situation, setting of the various classes of societies in the enactment in correlation with other provision thereof would demonstrate that the articulation with other provision thereof would show that the declaration 'of' obtains the importance a 'belonging to'. Any articulation in any authorization will like chameleon acquire tone out of sight in which it is arrange. Trying, to state, that a word secures meaning just regarding text and setting.

In C.I.T. versus Kerala State Co-operative Marketing Federation Ltd. 193 I.T.R. 624, this inquiry was again thought of and the view taken by the Gujarat High Court to which we have adverted to in the Karjon Cooperative Society Ltd. case was repeated. In C.I.T. versus Tamil Nadu Co-Operative Marketing Federation Ltd., it was held that the articulation "co-operative society" happening in segment 80P (1) covers any co-operative society whether it is an essential society or a pinnacle society and henceforth reference to members in proviso (iv) of area 80P (2) can be taken to mention to the individuals from a primary society or individuals from an apex society all things considered.

CONCLUSION:

The consideration of this Court doesn't appear to have been attracted to the aforementioned choice while choosing Assam Cooperative Society's case. It holds that the view taken in that requires re-valuation as expressed before by us. In the outcome, the request for the Kerala High Court following the choice of this Court in Assam Cooperative Societies is reversed. We hold that the general public occupied with the showcasing of rural produce of its members would mean not just such societies which manage the produce raised by the individuals who are people or social orders which are members thereof who may have bought such products from the agriculturists. Along these lines, we permit the civil appeal by putting aside the request made by the High Court and responding to the question referred us in the certifiable for the assesses and against the income. There will be no order as to costs.