॥आयकरअपीलीय न्यायाधिकरण, पणजी न्यायपीठ, पणजी में॥

IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI

BEFORE HON'BLE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

(Through Virtual Hearing from Pune)

Sr	ITA No.	Asstt Year	Appellant	Vs	Respondent	Ld. AR
1	02/PAN/2023	2013-14	The Marcel Urban Co-op Credit Society Ltd.,	Vs	The ITO, Ward-2(3), Panaji.	Mr Rohan Tarkar
2	22/PAN/2023	2017-18	Shri Gopalkrishna Co-op Credit Society Ltd.,	Vs	The ITO, Ward-1, Karwar.	Mr Ravish Rao
3	23/PAN/2023	2018-19	Shri Gopalkrishna Co-op Credit Society Ltd.,	Vs	The ITO, Ward-1, Karwar.	
4	24/PAN/2023	2017-18	Prathamit Krushi Pattin Sahakari Sangh Niyamit	Vs	The ITO, Ward-1, Nippani.	None
Revenue Represented By				**Mr N. Shrikanth ['Ld. DR']**		

सुनवाई की तारीख / Date of conclusive Hearing : 07/08/2023

घोषणा की तारीख / Date of Pronouncement : 06/10/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

This bunch of four appeals of different assessee is directed against separate orders of first appellate authority National Faceless Appeal Centre; Delhi ['NFAC' hereafter'] passed u/s 250 of The Income Tax Act ['the Act' hereafter] for various assessment years ['AY' hereafter].

2. During the course of virtual hearing, a common threadbare issue of disallowance u/s 80P(2) of the Act in all these appeals brought to the attention of the bench, on rival parties request, these are taken up together for the sake of brevity and for a common & consolidated order.

3. In adjudicating these matters together, first appeal viz; ITA No. 02/PAN/2023 is taken as lead case, resultantly our adjudication laid in succeeding paragraphs shall ***mutatis-mutandis*** apply to remaining three appeals viz; ITA No 22-24/PAN/2023.

4. Briefly stated facts borne out of ITA No. 02/PAN/2023 are that;

4.1 The assessee is a co-operative credit society registered under the State Co-op. Societies Act and engaged in the business of providing credit facilities to its member. The assessee for AY 2013-14 had filed its return of income ['ITR' hereafter] on 21/09/2013 declaring total income of ₹NIL after claiming a sum of ₹32,96,330/- as deduction u/s 80P(2) of the Act.

4.2 In a regular scrutiny assessment, the Ld. AO disallowed assessee's claim of 80P(2)(a)(i) deduction and determined resultant total income at ₹47,78,707/- as against the NIL income returned by the assessee.

4.3 In an appeal, Ld. CIT(A) following the Hon'ble Jurisdictional Bombay High Court (Goa Bench) decision in *'Quepem Urban Co-op. Credit Society Vs ACIT'* reported in 58 taxmann.com 113, came to reverse the action of Ld. AO and thus allowed the 80P(2) deduction to the assessee society.

4.4 When matter travelled to tribunal on earlier occasion, the Co-ordinate Bench vide its order in ITA No.168/PAN/2017 dt. 22/08/2017 remanded the file to Ld. AO with a direction to verify assessee's 80P(2) entitlement in the light Hon'ble Apex Court then judgement in *'Citizen Co-op. Society Ltd Vs ACIT'* reported in [2017] 397 ITR 1 (SC).

4.5 In consequential remand proceedings, following the direction of the Co-ordinate bench, the Ld. AO placing strong reliance on *'Citizen Co-op. Society Ltd.'* (supra) reframed the assessment and disallowed the entire claim of 80P(2)(a)(i) deduction to the assessee for the bullet reason that, ***'the assessee while carrying on its business of providing credit facilities to its member has also indulged in granting gold loans & other loans to non-shareholding members and others i.e., general public.'***

4.6 Assessee again agitated aforestated disallowance in an appeal before first appellate. However, finding no force in the contention of the assessee, the Ld. NFAC countenanced the disallowance on equi-reasons.

4.7 Disappointed by hot & cold blows of the respondent, the assessee has set-up the present case u/s 253(1) of the Act with a prayer for reversing the disallowance in the light of Hon'ble Apex Court recent judgement in '*Mavilayi Service Cooperative Bank Ltd. & Ors. Vs CIT'* reported in [2021] 431 ITR 001 *[equivalent citation 110 CCH 0003 ISCC, 197 DTR 0361, 318 CTR 0609 & 279 Taxman 0075 (SC)]*

5. At the virtual hearing, both the Ld. ARs Mr Tarkar & Mr Rao have reiterated respective appellant's version of submission as were laid before tax authorities below and to drive home their contentions, have strongly relied on '*The Mavilayi Service Cooperative Bank Ltd. & Ors. Vs CIT' (supra). Per contra* Ld. DR N. Shrikanth vehemently supported the impugned orders in light of *'Citizen Co-op. Society Ltd.'* (supra)

6. We have heard rival contentions of both the parties; subject to provisions of rule 18 of Income Tax Appellate Rules, 1963 ['ITAT Rules' hereafter] perused material placed on records, case laws relied upon by both rival parties and duly considered the facts of the case in light of settled legal position, which are forewarned to the parties for their necessary rebuttal.

7. At the outset, we observed that, both the tax authorities below have concurred same reasoning for denial of deduction claimed u/s 80P(2)(a)(i) of the Act. More precisely the tax authorities in the present case have dislodged the claim of 80P(2) deduction to the appellant for misplacing **'*principle of mutuality*'** while carrying on its business as co-operative society. While denying so, the tax authorities have strongly relied on the decision of Hon'ble Supreme Court laid in 'Citizen *Co-op. Society Ltd.'* (supra). We note that, in view of tax authorities below, the activities of the appellant society should have been confined to those members who participate in the surplus of the society and since the activities of providing credit facilities/banking during the year under consideration were also extended to non-members/general public, the resultant income derived therefrom has failed to satisfy the test of eligibility inscribed in section 80P(2)(a)(i) of the Act. In view of the Revenue condition precedents for claiming deduction under sub-clause (i) is tarnished the moment the appellant assessee advanced certain gold loans and other loans to non-members i.e. general public who do not participate in surplus, therefore these business transactions lifted the veil of mutuality and rendered the appellant ineligible for deduction u/s 80P(2) of the Act.

8. Before we commence to adjudicate this substantive issue of 80P(2)(a)(i) disallowance, we deem it necessary to reiterate certain key factual matrix of the case here viz; (1) the appellant is a **registered society** under State Co-op Societies Act (2) the appellant is a **Co-operative Society** within the meaning of section 2(19) of the Act (3) the appellant is **engaged in providing credit facilities to its member** (4) the appellant's **gross total includes income referred in s/s (2) of section 80P of the Act** (5) And mostly importantly the Revenue could hardly dispute any of the foregoing facts.

9. When we consider section 80P for that matter, we noted that, ***the eligibility*** for deduction is prescribed us/s (1), whereas ***the entitlement*** is subscribed in s/s (2) thereof. Let us talk about former first. In order to entitle for a claim of deduction us/s (2) of the Act, a claimant assessee has to pass twin eligibility conditions as prescribed in s/s (1) i.e. *(i) it must be a co-operative society and then (ii) such co-operative society's gross total income must include any one or more types/categories of income referred in sub-section (2) of section 80P of the Act.* When these twofold snowball conditions are satisfied, a claimant assessee is then allowed to enter the entitlement room of 80P(2) deduction. *Au Contraire*, if claimant assessee is ***not a co-operative society*** but it's gross total income includes income attributable to any class/category of activities falling within s/s (2) **or** where claimant is a co-operative society but it's gross total ***income does not include*** any income attributable to s/s (2), then in both these scenarios, the claimant assessee disqualifies from entering into this vanilla territory of section 80P(2) of the Act, **for that particular assessment year.**

10. Now coming to later part i.e. entitlement, we note that sub-section (2) splits the entitlement into two types i.e. (i) entitlement of 100% deduction of income **according to nature of activity a societies engaged into**, and more precisely as laid in clause (a) (b) (c) and (f) of s/s (2) of section 80P of the Act and (ii) entitlement **according to nature/type of income** derived by a society assessee as laid in clause (d) & (e) of s/s 2 of section 80P of the Act. Thus this sub-section (2) deals with two facets (i) it first categories societies into eligible classes/types on the basis of nature of activities and then quantifies amount of eligible deduction available to such categorised society and (ii) also quantifies amount of deduction based upon nature of income earned by it. We also note that, clause (a) categorises co-operative societies into seven [(i) to (ii)] classes on the basis of their ***engagement***, similarly clause (b) for primary societies engaged into four classes laid therein, clause (f) for manufacturing societies, whereas other societies qualifies themselves into residuary clause (c) of sub-section (2) of section 80P of the Act. Lastly clause (d) entitles 100% deduction of interest and dividend income to the recipient assessee societies if such income is derived from its investment with other society.

11. Having appositely discussed the provisions of section 80P of the Act, now let's return to present case in hand where we have to answer two questions viz; (i) as to when and what point the existence of mutuality came to an end and appellant's income became taxable u/s 4 of the Act? (ii) And as to what extent a deduction u/s 80P(2)(a)(i) from such taxable profits/gains is available to the appellant credit society?

12. **Let's first deal with taxability of profits/gains of the business**

12.1 The appellant is a credit co-operative society and admittedly is governed by the doctrine of mutuality. This doctrine of mutuality refers to the principle that one cannot engage into a business with self. If the identity of contributor and participator to common pool is marked by oneness, then a profit motive cannot be attached to such a venture. Thus, the excess of income over expenditure of such a venture is not taxable under the present fiscal law for the lack of a profit motive and conclusion on this account should invariably be facts based. This proposition finds force in the decision of Hon'ble Supreme Court in *'Yum Restaurants (Marketing) Pvt. Ltd Vs CIT'* reported in 424 ITR 630 [Equivalent citation 189 DTR 1/ 313 CTR 37 / 271 Taxman 217 / 116 taxmann.com 374 (SC)], wherein Hon'ble lordships have categorically held that *'existence of mutuality is a factual exercise'*.

12.2 In context of 80P(2)(a)(i) deduction, it is understood that, where the business transactions are undertaken amongst the close group of **participative members** then without any smoke of doubt, the existence of mutuality stands established. The resultant surplus arising from such transactions undertaken within the close group of participative members fails to partake the character of 'Income' as defined u/s 2(24) of the Act, for the simple reason that *'one cannot make profit/gains by dealing with self'*. Consequently, such surplus for the purpose of taxability falls outside the ambit of section 4 of the Act.

And once it is so held then the question of bringing the said *'surplus'* to gross total income for computation and weighing it for a claim of deduction u/s 80P(2) of the Act would not arise at all.

12.3 *Per contra*, where the transactions are undertaken in mixed form ***irrespective of number of inclusion or exclusion of participative member or non-member (general public)*** the very existence of mutuality is endangered, but does not fail in wholesome because doctrine of mutuality is transaction based. This proposition stands fortified in a recent judgement of Hon'ble Supreme Court in *'Secundrabad Club Etc. Vs CIT'* reported in 334 CTR 105 & 117 CCH 144, wherein while dealing with taxability of interest earned out of surplus funds parked with a bank, their Lordships vide para 37 have laid out that, ***'the existence of mutuality has to be tested transaction to transaction and instance to instance and to lift the veil it necessity to discern the nature of each transaction when so required'.*** And applying the dictum laid by their Lordships in *'CIT Vs Bankipur Club'* reported in 5 SCC 394 ***'a host of factors need to be considered to arrive at a conclusion as to at what point does the relationship of mutuality end and that of trading begin'.*** And this exercise, in our considered view needs to be undertaken for each assessment year separately, since each assessment year is a separate unit in view of the law laid down by the Apex Court in *'CIT Vs Ace Multi Axes Systems Ltd. [2018] 252 Taxman 274 & 400 ITR 141 (SC).*

12.4 In the light of forgoing discussion and settled legal position, the business transactions of providing credit facilities carried out by the **participative shareholder members of credit society in mutual association with each other**, i.e., where they contribute to a common pool/fund for betterment of contributors and generate returns/surplus therefrom, such returns/surplus remain shielded by doctrine of mutuality hence inexigible to tax as income. And where such transactions are undertaken **with any person other than participative shareholder members**, then doctrine of mutuality in relation to such transactions fails and resultant surplus arising therefrom alone would partake the character of income in terms of section 2(24) of the Act and resultantly exigible to tax u/s 4 of the Act. Precisely the transactions where mutuality fails, the transactional surplus is brought to tax as income and resultantly the question of deductibility u/s 80P(2)(a)(i) of the Act arises in relation such taxable income only and not otherwise.

12.5 This answers the first question that, the transactional surplus attributable to credit facilities provided to or money/loans advanced to participative equity shareholder members of the appellant society is alone governed by the doctrine of mutuality and hence inexigible to tax. Conversely, the transactional surplus attributable to credit facilities provided to or money/loans advanced to **any other type of member** (by whatever name called) **and non-member i.e., general public** is only taxable u/s 4 of the Act and would be subject matter of deduction.

13. **Now it's time to deal with deductibility of claim u/s 80P(2)(a)(i);**

13.1 We note here that, the Revenue's denial to allow 80P(2)(a)(i) deduction to the appellant society is solely founded on the ground of mis-placing the principle of mutuality by the appellant assessee owning to its dealing with non-members or general public. We could find this stricter view of the Revenue fortified in the decision of Hon'ble Apex court laid way back in 1953 in *'CIT Vs Royal Western India Turf Club Ltd'* reported 24 ITR 551 (SC) wherein their Lordships had adopted a stricter approach in applying the principle of mutuality. It goes without saying that, while disallowing the claim for deduction u/s 80P(2) to the appellant assessee, the respondent revenue has relied on the decision of 'Citizen *Co-op. Society Ltd.'* (supra). In that case the assessing officer had brought on record that, the assessee beside catering to its resident ordinary members was also accepted deposits from nominal member without the approval from Registrar, thus activities being undertaken in violations of the provisions of the 'Multi State Co-operative Societies Act, 2002' ['MSCSA' hereafter]. On the other hand, the Ld. AR in support of grounds of appeal, has attempted to fortify appellant's eligibility and entitlement for claim of deduction by submitting that, in similar facts and circumstances the Hon'ble Supreme Court (Full bench) has allowed the appeal of the assessee in '*Mavilayi Service Cooperative Bank' (supra)* after considering the ratio laid down by division bench in 'Citizen *Co-op. Society Ltd.'* (supra).

13.2 At the outset, we are mindful to quote that, both the tax authorities below have carried away merely by the fact that, the appellant assessee while carrying on its business of providing credit facilities had also advanced gold loans / other loans to non-member or general public. We note that, the ratio laid by the division bench of Hon'ble Apex court in 'Citizen *Co-op. Society Ltd.'* (supra) has countenanced by the full bench in its judgement in the case of '*The Mavilayi Service Cooperative Bank Ltd. & Ors. Vs CIT' (supra)* to the effect that, the profits/gains attributable to the activity of providing credit facility to non-members or general public is by no means deductible u/s 80P(2) of the Act. However, while holding so, their Lordships have also categorically held that, dealing with general public does not disentitle the assessee from claiming deduction thereunder. Therefore for an uncloud clarity on this subject, it necessitates us to reproduce para 33 in *verbatim* here under;

> ***'33. Sixthly, what is important to note is that, ……………………………….…..., Once it is clear that the Co-operative society in question is providing credit facilities to its members, the fact that it is providing credit facilities to non-members does not disentitles the society in question from availing of the deduction. The distinction between eligibility for deduction and attributability of amount of profits and gains to an activity is a real one. Since profits and gains from credit facilities given to non-member cannot be said to be attributable to the activity of providing credit facilities to its member, such amount cannot be deductible.'*** *(Emphasis supplied)*

13.3 In terms of '*B. Shama Rao v. Union Territory, Pondicherry*' reported in 2 SCR 650, it is only the ratio decidendi and the principle of a judgment that is binding as a precedent and not because of conclusion drawn therein. Therefore, ratio decidendi laid in '*Mavilayi Service Cooperative Bank' (supra)* can be summarised from para 33 (supra) as binding precedents in adjudicating the present issue as;

a. While carrying out the business of providing credit facilities to members, dealing with non-member or general public, ispo-fact does not disentitles the appellant assessee society from claiming deduction u/s 80P(2) of the Act, and

b. Before arriving at the deduction u/s 80P(2) available to the appellant assessee society, a real distinction between eligibility for deduction and attributability of amount of profits and gains need to be undertaken in respect of each assessment year separately, and lastly

c. So much of profits and gains attributable to or derived from the credit facilities provided/given to non-members or general public are not deductible u/s 80P(2)(a)(i) of the Act.

13.4 In the light of aforestated legal position, it is amply clear that, gold loans or other loans advanced to non-member / general public by the appellant does not disentitle for the eligible claim of deduction u/s 80P(2)(a)(i) of the Act. However, the surplus attributable to such gold & other loans advanced to non-member / general public is exigible to tax without any claim of deduction thereagainst.

13.5 To make it easier for taxability of surplus and deductibility of taxable income in the present case, we deem it necessary to segregate the business activities according to class of members and non-members viz; (**A**) participative equity shareholder members (**B**) Any other type of members by whatever name called & (**C**) non-member i.e., general public not following in any of the former two classes.

Transactions			Existence of Mutuality	Surplus is (Profits/gains)	Taxability of Surplus	Eligible for Deduction u/s 80P(2)(a)(i)	Support from Judicial Precedents
Category	**Deposits Accepted From**	**Loans / Advances to**					
A1	Participative Equity Shareholder Members (Entitled to participate in surplus sharing) **'A'**	Participative Equity Shareholder Member **'A'**	**Present**	Not an Income	Not Taxable	Question doesn't arise	***Yum Restaurants (Marketing) Pvt. Ltd Vs CIT' 424 ITR 630***
A2		Nominal Member without Equity shareholding **'B'** *(By whatever name called)*	**Missing**	Income	Taxable	Yes Deductible	***UP Co-op. Cane Unions' Federation Ltd., Vs CIT (1997) 11 SCC 287' & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***
A3		Non-Member or general Public **'C'**	**Missing**	Income	Taxable	**Not Deductible**	***Citizen Co-op. Society Ltd Vs ACIT[2017] 397 ITR 1 (SC) & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***
B1	Nominal Members without Equity shareholding (Not entitled to participate in surplus sharing) **'B'**	Participative Equity Shareholder Member **'A'**	**Present**	Not an Income	Not Taxable	Question doesn't arise	***Yum Restaurants (Marketing) Pvt. Ltd Vs CIT' reported in 424 ITR 630***
B2		Nominal Member without Equity shareholding **'B'** *(By whatever name called)*	**Missing**	Income	Taxable	Yes Deductible	***UP Co-op. Cane Unions' Federation Ltd., Vs CIT (1997) 11 SCC 287' & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***
B3		Non-Member or general Public **'C'**	**Missing**	Income	Taxable	**Not Deductible**	***Citizen Co-op. Society Ltd Vs ACIT[2017] 397 ITR 1 (SC) & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***
C1	Non-Members or General Public **'C'**	Participative Equity Shareholder Member **'A'**	**Present**	Not an Income	Not Taxable	Question doesn't arise	***Yum Restaurants (Marketing) Pvt. Ltd Vs CIT' reported in 424 ITR 630***
C2		Nominal Member without Equity shareholding **'B'** *(By whatever name called)*	**Missing**	Income	Taxable	Yes Deductible	***UP Co-op. Cane Unions' Federation Ltd., Vs CIT (1997) 11 SCC 287' & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***
C3		Non-Member or general Public **'C'**	**Missing**	Income	Taxable	**Not Deductible**	***Citizen Co-op. Society Ltd Vs ACIT[2017] 397 ITR 1 (SC) & Mavilayi Service Vs CIT [2021] 431 ITR 001 (SC)***

13.6 The foregoing tabulation in our considered view briefly clarifies the settled legal position on the subject matter of taxability and deductibility as; (i) the surplus arising from transactions falling in A1, B1 & C1 above, is attributable towards its business of providing credit facilities to its **Class-A** participative equity shareholder members, who were alone entitled to share such surplus by way of dividend etc., therefore is governed by the doctrine of mutuality and hence not an income to be brought to tax. Resultantly, the question of deduction thereof and thereagainst would not arise. (ii) the surplus arising from transactions falling in A2, B2 & C2 above, is contributed by **Class-B** members (nominal, token, associate member by whatever name called) who were not entitled to share or participate in dividend etc., therefore with respect to such transactional surplus mutuality comes to an end and renders it taxable as an income in the hands of appellant society. However, against such income to be taxed, the appellant society is eligible for 100% deduction u/s 80P(2)(a)(i) of the Act for the reason that, such surplus (applying the aforestated judicial precedents) said to be attributable to the activity of providing credit facilities to its member. (iii) lastly the surplus arising from transactions falling in A3, B3 & C3 is contributed by non-members i.e., general public therefore it is not only taxable as an income but no deduction thereof and thereagainst is available u/s 80P(2)(a)(i) of the Act because, such surplus cannot be said to be attributable to the activity of providing credit facilities to its member.

13.7 In the light of aforestated discussion and settled legal position and undisputed fact narrated at para 8 hereinabove, we hold the action of tax authorities below in denying the entire amount of claim of deduction made u/s 80P(2)(a)(i) of the Act is as untenable in law, and therefore deserves to be vacated.

13.8 Since, neither party to the present appeal could brought on record the separate figures of surplus (profits/gains/) arising out of three classes, that is to say (i) figures/amount of surplus earned out of credit facilities provided/given to Class-A members (ii) figures/amount of surplus earned out of credit facilities provided/given to Class-B members and (iii) figures/amount of surplus earned out of credit facilities provided to Class-C non-member or general public. Faced with this situation, we deem it fit to remind this issue back to the file of Ld. CIT(A) with a direction to **restrict the disallowance only to the extent of surplus (profits/gains) attributable to credit facilities (gold loans / other loans etc.) provided to Class-C non-members or general public.** Conversely no disallowance shall be made against profits/gains attributable credit facilities provided/given to Class-A and Class-B members.

13.9 In result, all the respective grounds of appeal raised against the denial of claim for deduction u/s 80P(2)(a)(i) of the Act, are accordingly stands allowed for statistical purpose.

14. **Disallowance of interest income derived from Belgaum/Karwar District Co-operative Bank and brought to tax under 'Income from other Sources'**

14.1 Insofar as the allowability of deduction u/c (d) of s/s (2) of section 80Pof the Act is concerned, it is well settled that income derived by a co-operative society from its investment held with other co-operative societies shall be eligible for deduction while computing total income of a recipient co-operative society. Notably this section 80P(2)(d) lays down twofold condition viz; (i) the income in the form of interest or dividend is arising out of investment and (ii) both, the recipient as well the payer of income must be co-operative society within the meaning of section 2(19) of the Act. Thus, once this twofold condition is satisfied, then assessee being the recipient of such income (interest / dividend) is entitled to deduction u/s 80P(d) of the Act. Here what is relevant for claiming of deduction is that interest/dividend income should have been derived from the investment made/held by the assessee co-operative society with any other co-operative society irrespective of nature, category or class with which former and later is registered under respective state/central co-operative laws.

14.2 In the present case, admittedly, the appellant is a co-operative society, therefore reasoning for denial of 80P(2)(d) deduction is that the interest was received from a DCC banks has no legs to stand as these banks are principally a co-operative society registered under the respective State/Central Co-operative Laws.

14.3 This issue was considered by the Hon'ble Karnataka High Court in the case of CIT vs. Totagars Cooperative Sale Society, 392 ITR 74 (Karn) wherein the Hon'ble High Court referring to the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. (supra) held that the ratio of decision of the Hon'ble Supreme Court in the aforesaid case (supra) not to be applicable in respect of interest income on investment as same falls under the provisions of section 80P(2)(d) and not u/s 80P(2)(a)(i) of the Act. Even the decision of Pune Bench of the Tribunal in the case of Sant Motiram Maharaj Sahakari Pat Sanstha Ltd. vs. ITO, 120 taxmann.com 10 wherein the Tribunal after making reference to the decisions of the Hon'ble Supreme Court in the case of Totgars Cooperative Sales Society Ltd. (supra) and having noticed the divergent views of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. vs. ITO, 55 taxmann.com 447 and the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. vs. CIT, 50 taxmann.com 278, decision of the Hon'ble Delhi High Court in the case of Mantola Cooperative Thrift Credit Society Ltd. (supra) had not been preferred to view of the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Co-op. Ltd. (supra). The relevant observation finds elaborately dilated at para 9 by the Pune Bench of the Tribunal in the case (supra) and adopting the same proposition, we are inclined to hold same view in the extant case.

14.4 In the light of above we hold that, the reasoning adopted by the tax authorities below in disallowing the entire claim of deduction u/s 80P(2)(d) of the Act is not in conformity with the aforestated legal position of law, hence the action of disallowance deserves to be vacated, ergo ordered accordingly. Thus, all the grounds raised against the disallowance of claim made u/s 80P(2)(d) of the Act stands allowed.

15. **In result, all four appeals of different assessee's are allowed in aforestated terms.**

U/r 34 of ITAT Rules, orders are pronounced in open court on this Friday 06th day of October, 2023.

-S/d-	-S/d-
SANTBEER SINGH GODARA	**G. D. PADMAHSHALI**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 06th day of October, 2023.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT, Panaji Goa
4. The NFAC, Delhi, New Delhi
5. DR, ITAT, Bench, Panaji
6. गार्डफ़ाइल / Guard File.

Ashwini

आदेशानुसार / By Order
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.