

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “J(SMC)”, MUMBAI  
BEFORE SHRI. NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
&  
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 2531/MUM/2024 (A.Y: 2013-14)**

L and T Group of Companies Vs. Ward 24(2)(1), Mumbai  
Employees Co-op Housing Society Piramal Chambers, Mumbai  
Limited

L Tech House, Vijay Nagar, Marol,  
Maroshi Road, Andheri East, Mumbai  
– 400 059.

**PAN: AABAL1066H**

**(Appellant)**

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri. Vishal Gala CA</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri. Sunil K. Agwane (Sr. DR.)</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>25.07.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>30.07.2024</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order dated 28.03.2024 of Learned Commissioner of Income Tax (Appeals), Addl./JCIT (A)-1, Kolkata [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2013-14.



2. Assessee has raised following grounds in this appeal:

- “1. *Disallowing the deduction taken U/s 80P(2)(d) and charging tax on Interest earned from investment in Co-operative banks on the wrong ground that Cooperative bank is a commercial bank and does not fall under the purview of a Co-operative society referred in section 80P(2)(d) of the Income tax Act 1961.*
2. *Not considering the fact that in order to claim deduction U/s 80P(2)(d) of the Act the only condition is that assessee should be co-operative society and it has interest income accrued from investment with other co-operative society including co-operative bank which is included in part of the gross total income.*
3. *Not Considering the various ITAT and court Judgments clearly allowing the deductions claimed under 80P(2)(d) of Income Tax Act 1961 to a Co-operative society.*
4. *Appellant craves leave or add, alter or delete any grounds either before or in the course of the hearing of the Appeal.”*

3. Only controversy in this appeal is the disallowance of deduction u/s. 80P(2)(d) of the Act. The assessee is a L and T Group of Companies Employees Co-op Housing Society Limited is a registered society under Maharashtra Co-operative Societies Act, 1960. The assessee has filed the income tax return for A.Y. 2013-14 u/s. 139(1) of the Act on 03.12.2018 declaring gross total income of Rs. 18,64,642/-. The assessee during the relevant year under consideration has claimed deduction of Rs. 18,12,581/- u/s. 80P(2)(d) of the Act under chapter VI A as under:

<i>Particulars</i>	<i>Interest from Mumbai District Central Co-op. Bank</i>	<i>Interest from NKGSB Co-op Bank</i>	<i>Total Interest Income</i>	<i>Deduction claimed Section 80P(2)(d)</i>
<i>Fixed Deposits</i>	<i>11,20,359/-</i>	<i>6,92,222/-</i>	<i>18,12,581/-</i>	<i>18,12,581/-</i>



4. Income Tax officer considering that the “Co-operative Bank” does not fall under the purview of “Co-operative Society” as referred to in Section 80P(2)(d) of the Act, added back the deduction taken of Rs. 18,12,581/- u/s. 80P(2)(d) of the Act into the total income of the assessee for the A.Y. 2013-14. The Ld. CIT(A) confirmed the such addition done by the Income Tax officer in the impugned order dated 28.03.2024.
5. Aggrieved by the impugned order, the assessee is in appeal before us. We have heard the Ld. AR on behalf of the assessee and Ld. DR on behalf of the revenue. The Ld. AR submits that the various coordinate bench of ITAT has deleted the addition made by the revenue authority in similar cases and assessee has been extended benefit of Section 80P(2)(d) and interest income earned from a co-operative bank has been permitted to be deducted from the total income. The Ld. AR has relied upon following cases:
- a. *ITA No. 2547/MUM/2022, Regency Premises Co-op. Hsg. Society Ltd. Vs. DCIT/ACIT, CPC, (A. Y. 2020-21), dated 17.01.2023.*
  - b. *ITA No. 1972/MUM/2022, Bhag Co-op. Hsg. Society Ltd. Vs. Asst. CIT – CPC, (A.Y. 2020-21), dated 30.09.2022.*
  - c. *ITA No. 1950/MUM/2019, Om Sudarshan CHS Ltd., Mumbai Vs. ITO 17(2)(5), Mumbai, (A.Y. 2014-15), dated 29.10.2020.*



- d. *ITA No. 374/MUM/2018, Shree Mahadeshwar Sahakari Patpedhi Maryadit Vs. Income Tax Officer 21(2)(2), (A.Y. 2013-14), dated 31.03.2017.*
- e. *ITA No. 1343/MUM/2017, Sea Green Co-operative Housing Society Vs. ITO 21(3)(2), Lalbaug, Mumbai, (A.Y. 2009-10), dated 15.01.2015.*
- f. *ITA No. 3566/MUM/2014, Lands End Co-operative Housing Society Vs. ITO Ward 16(1)(3), Grant Road, Mumbai.*
- g. *ITA No. 3155/MUM/2019, Solitaire CHS Ltd. Vs. Pr. Commissioner of Income Tax – 265, (A.Y. 2014-15), dated 29.11.2019.*
- h. *ITA No. 4058/MUM/2017, ITO, Mumbai Vs. The Presidency CHS Ltd.,*
- i. *ITA No. 2787 & 2788/DEL/2018, The Veer Co-operative Group Housing Society Limited, New Delhi Vs. ITO.*
6. While relying the above judgement of the Ld. Coordinate Benches, it is submitted that in all these cases the assessee was co-operative housing society and interest income earned by them are on the deposits with co-operative bank and in all these cases the Ld. Tribunal has allowed the claim u/s. 80P(2)(d) of the Act. It is therefore vehemently argued that the case of the assessee is same and similar and therefore the assessee should be allowed to claim deduction of interest amount u/s. 80P(2)(d) of the Act.



7. The Ld. DR on the other hand submitted that the Hon'ble Gujarat High Court in the case of *Katlary Kariyana Merchant Sahkari Vs. (ACIT 327 CTR 138)* has held that the assessee is not entitled for deduction under section 80P(2)(d) towards the interest income received from deposit with Co-operative Bank. The Ld. DR therefore, submitted that the lower authorities have correctly denied the benefit of deduction to the assessee.
8. We have considered the submissions made by the parties and perused the material on record. The same issue has been decided recently by the Ld. Coordinate Bench in *ITA No. 542/Mum/2024, Shah and Nahar Industrial Premises A2 Co-op. Soc. Ltd. Vs. National e-Assessment Centre, New Delhi/Asst. CIT, Circle-22(3), dated 21.06.2024* and one of us was member of the Coordinate Bench. Para 6 to 8 are relevant of this order and reproduced as under:

"6. *We have heard the parties and perused the material available on record. We notice that the Co-ordinate Bench has been consistently holding that the income derived by way of interest from Co-operative Banks is also eligible for deduction under section 80P(2)(d). The relevant observations of the coordinate bench in Kona Seema Co-operative Housing Society Ltd. (supra) where it is held that –*

*"5. We have considered the submissions of both sides and perused the material available on record. The dispute raised by the assessee is against the denial of deduction claimed under section 80P(2)(d) of the Act in respect of interest income received from the Co-operative Banks. The assessee is a Cooperative Housing Society and during the assessment year 2015-16 earned interest income of Rs. 5,74,097 from the investments made*



*in Saraswat Cooperative Bank Ltd and Maharashtra State Co-operative Bank Ltd.*

6. *Before proceeding further, it is relevant to note the provisions of section 80P of the Act under which the assessee has claimed the deduction in the present case. As per the provisions of section 80P(1) of the Act, the income referred to in sub-section (2) to section 80P shall be allowed as a deduction to an assessee being a Cooperative Society. Further, section 80P(2)(d) of the Act, reads as under:*

*“80P. Deduction in respect of income of co-operative societies.*

*(1) .....*

*(2) The sums referred to in sub-section (1) shall be the following, namely: –*

*(a) .....*

*(b) .....*

*(c) .....*

*(d) in respect of any income by way of interest or dividends derived by the cooperative society from its investments with any other co-operative society, the whole of such income;”*

7. *Thus, for the purpose of provisions of section 80P(2)(d) of the Act, two conditions are required to be cumulatively satisfied- (i) income by way of interest or dividend is earned by the Co-operative Society from the investments, and (ii) such investments should be with any other Co-operative Society. Further, the term ‘cooperative society’ is defined under section 2(19) of the Act as under:*

*“(19) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies ;”*

8. *In the present case, there is no dispute that the assessee is a Cooperative Housing Society. Thus, if any income as referred to in sub-section (2) to section 80P of the Act is included in the gross total income of the assessee, the same shall be allowed as a deduction. It is pertinent to note that since the assessee is registered under the Maharashtra Co-operative Societies Act, 1960, it is required to invest or deposit its funds in one of the modes provided in section 70 of the aforesaid Act, which includes investment or deposit of funds in the District Central Co-operative Bank or the State Cooperative Bank. Accordingly, the assessee kept the deposits in Saraswat Cooperative Bank Ltd and Maharashtra State Co-operative Bank Ltd and*



earned interest, which was claimed as a deduction under section 80P(2)(d) of the Act. The deduction under section 80P(2)(d) of the Act was denied on the basis that the Saraswat Co-operative Bank Ltd and Maharashtra State Co-operative Bank Ltd are multi-state scheduled banks and therefore interest derived will not qualify for deduction under section 80P(2)(d) of the Act. However, from the perusal of section 80P(2)(d) of the Act, it is sufficiently evident that there is no restriction on claiming deduction under the said section in respect of interest income earned from the Cooperative society operating in multiple states. Further, section 80P(4) of the Act is of relevance only in a case where the taxpayer, who is a Co-operative Bank, claims a deduction under section 80P of the Act which is not the facts of the present case. We find that the Hon'ble Supreme Court in *Mavilayi Service Co-operative Bank Ltd. vs CIT, Calicut*, [2021] 431 ITR 1 (SC) while analysing the provisions of section 80P(4) of the Act held that section 80P(4) is a proviso to the main provision contained in section 80P(1) and (2) and excludes only Co-operative Banks, which are Co-operative Societies and also possesses a licence from RBI to do banking business. The Hon'ble Supreme Court further held that the limited object of section 80P(4) is to exclude Co-operative Banks that function at par with other commercial banks i.e. which lend money to members of the public. Therefore, we find no merits in the reasoning adopted by the learned CIT(A) in denying deduction under section 80P(2)(d) of the Act to the assessee. As a result, grounds no. 4 and 5 raised in assessee's appeal are allowed."

7. We also noticed that in a recent decision the Co-ordinate bench in the case of *Shivsahyadri Sahakari Patpedhi Maryadit (supra)* has held a similar view by following the decision of the Hon'ble Madras High Court in the case of *Thorapadi Urban Co-operative Credit Society Vs. ITO (2023) 156 taxmann.com 419 (Madras)*. The relevant observations of the Co-ordinate Bench are extracted below:

"8. We have considered the submissions made. As noticed earlier, the issue stands concluded by the decisions of this Tribunal as referred to above. Even the Hon'ble Madras High Court in the case of *Thorapadi Urban Co-op. Credit Society Ltd. (supra)* has held thus in paras 8 to 10 of its order :-

8. The main issue is to decide in the present case is as to whether the petitioner Co-operative Society is entitled for a deduction for the interest income received from the Co-operative Bank?

9. It would be appropriate to extract hereunder the relevant portion of Section 80P(2)(d).

"80 P. Deduction in respect of income of co- operative societies:

(1) .....



(2) The sums referred to in sub-section (1) shall be the following, namely:

-

(a) to (c).....

(d) "in respect of any income by way of interest or dividends derived by the co-operative society from its investment with any other co-operative society, the whole of such income"

9. A reading of the above said provision makes it clear that in the event if any Co-operative Society derived income by way of interest from investment made in any other Co-operative Society the whole such interest is eligible for deduction. Now the issue is as to whether the Co-operative Bank would fall within the purview of the term 'Co-operative Society'. In the present case, the petitioner produced a document to show that the Cooperative Bank, where they have made investments was registered under the Tamil Nadu Co-operative Societies Act, 1983 on 20.5.2003. In this regard, he also produced a copy of the Certificate of Incorporation of the said Co-operative Bank. Therefore, it is clear that the investment made by the petitioner is a Co-operative Bank registered under the Co-operative Societies Act. The Income Tax Act, 1961 has also defined 'Co-operative Society' under Section 2(19) as follows:

"2(19), "Co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of cooperative societies. '

10. A reading of the above definition would make it clear that 'Cooperative Society' means a Co-operative Society registered under Cooperative Societies Act, 1912. Thus, a Co-operative Society referred therein is only a co-operative society as defined under the Act, be it a Cooperative Society carrying on banking business or Co-operative Society carrying on the other businesses or a Co-operative bank."

9. In that view of the matter, we find that the appeal has to succeed.

8. From the perusal of records, we noticed that the assessee has placed the surplus funds in deposits with various Co-operative Banks and has received interest income on the same. The assessee while filing the return of income has claimed such interest as a deduction under section 80P(2)(d). We notice that the lower authorities have denied the benefit of deduction for all the AYs under consideration for the reason that the interest received from Co-operative Bank is not eligible for deduction under section 80P(2)(d). These facts are identical to the facts adjudicated in the above judicial pronouncements. Therefore, respectfully following the above decisions, we hold that the assessee is entitled for deduction under section 80P(2)(d) towards income derived from deposits with Co-operative



*Bank for AY 2017-18, 2018-19 & 2020-21. Accordingly, the AO is directed to allow the deduction claimed by the assessee for these AYs.”*

9. In the case before us, it is evident from the facts that in the F.Y. 2012-13 relevant A.Y. 2013-14, the assessee earned interest income of Rs. 18,12,581/-. Whole of this interest is earned from the savings and fixed deposit maintained with the cooperative bank i.e., The Mumbai District Central Co-operative Bank & NKGSB Co-operative Bank. The assessee claimed the interest amount as deduction u/s. 80P(2)(d) of the Act but the same was not allowed by the lower authorities i.e., an Income Tax Officer u/s. 143(3) of the Act and in appeal by the Ld. CIT(A) u/s. 250 of the Act vide impugned order.
10. Since the facts in the case of the Coordinate bench in ITA No. 542/Mum/2024 referred (supra) were same and similar, therefore, the finding returned by the Coordinate Bench as reproduced above mutatis mutandis applies to the facts and circumstances of the present case.
11. For the above reasons, we therefore order that the assessee is entitled for deduction u/s. 80P(2)(d) of the Act towards the income received from deposit with Co-operative Bank. Accordingly, the Ld. AO is directed to allow the deduction claimed by the assessee for the F.Y. 2012-13.



12.The grounds in the appeal are accordingly allowed and the appeal is disposed off in above terms.

13.In the result, appeal filed by the assessee is allowed in above terms.

**Order pronounced in the open court on 30.07.2024**

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

Mumbai / Dated 30.07.2024  
*Karishma J. Pawar, (Stenographer)*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mumbai**