

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.417/Ahd/2024  
Assessment Year: 2021-22**

Sahyog Co-operative Credit Society Limited, Sahyog Bhavan, Virpur Road, Balasinor – 388 255, Gujarat. <b>[PAN – AABAS 0346 M]</b>	Vs.	CPC (Income Tax Department), Bengaluru, Present Jurisdictional AO: ACIT, Anand Circle, Anand.
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**ITA No.418/Ahd/2024  
Assessment Year: 2021-22**

Balasinor Road Transport Co-op. Society Limited, Rajpuri Darwaja, Bazar, Balasinor – 388 255, Gujarat. <b>[PAN – AAAAB 5121 G]</b>	Vs.	The CPC, Bengaluru, Present Jurisdictional AO: ACIT, Anand Circle, Anand.
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**ITA No.587/Ahd/2024  
Assessment Year: 2021-22**

The Radhu Mercantile Co-op. Credit Society Limited, Sarvoday Shopping Centre, Bazar, Radhu – 387 560. (Gujarat). <b>[PAN – AAAAT 6328 M]</b>	Vs.	The CPC Income Tax Department, Jurisdictional AO: The ITO, Ward-1, Aaykar Bhavan, Near Collector Bungalow, Nadiad – 387 002. (Respondent)
(Appellant)		
Assessee by	Shri M.K. Patel, AR	
Revenue by	Shri Sanjay Kumar, Sr. DR	
Date of Hearing	05.08.2024	
Date of Pronouncement	29.08.2024	

**ORDER**

These three appeals have been filed by three different assessees against three separate orders dated 23.01.2024 passed by the ADDL/JCIT(A)-4 Bengaluru, 07.02.2024 passed by the ADDL/JCIT(A)-4, Kolkata & 26.02.2024 passed by ADDL/JCIT(A), Prayagraj respectively for the Assessment Years 2021-22. All these appeals were heard together and, therefore, as a matter of convenience, all these three appeals are being disposed of by way of this consolidated order.

2. Grounds raised in all these three appeals are common except for the amount mentioned therein, therefore, grounds taken in ITA No.417/Ahd/2024 are being reproduced as under :-

- "1. That on facts, in law, and on evidence on record, the disallowance of claim of deduction u/s.80P(2)(d) of the Act of Rs.32,96,596/- is beyond the scope of powers of adjustment as provided in Section 143(1)(a) of the Act, and could not be made in the intimation u/s.143(1) of the Act.*
- 2. That on facts, in law, and on evidence on record, the learned CIT(A), Addl/JCIT(A)-4, Bengaluru has erred in confirming the disallowance of claim of deduction u/s.80P(2)(d) of the Act of Rs.32,96,596/-.*
- 3. In the alternative, and without prejudice to above grounds, on facts, in law, and on evidence on record, the basic deduction of Rs.50,000/- u/s.80P(2)(c) of the Act ought to be granted to the appellant."*

3. The facts of ITA No.417/Ahd/2024 in the case of Sahyog Co-operative Credit Society Limited are taken firstly. The assessee is a Co-op. Credit Society. The assessee filed return of income for Assessment Year 2021-22 on 03.01.2022 in ITR-5 in the status as AOP/BOI admitting an income of Rs.7,99,040/-. The extended due date for filing of the return was 15.03.2022. The assessee has shown gross total income of Rs.1,11,21,151/- and claimed deduction under Chapter VIA under Section 80P of the Income Tax Act, 1961 amounting to Rs.1,03,22,095/-. Hence, total income shown as return of income at Rs.7,99,040/-. The assessee claimed deduction under Section 80P(2)(d) of the Act on account of receipt of interest of Rs.32,96,596/- and a deduction under Section 80P(2)(a)(i) of Rs.70,25,499/-. The return was processed under Section 143(1) of the Act on 19.10.2022, disallowing the claim of deduction under Section 80P(2)(d) of the Act amounting to Rs.32,96,596/-. The income computed under Section 143(1) of the Act was Rs.40,95,650/-. The said interest was

earned from Kheda District Co-op. Bank amounting to Rs.47,07,620/- and Gujarat State Co-op. Bank amounting to Rs.43,34,059/-.

4. Being aggrieved by the Intimation Order under Section 143(1) of the Act, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that as regards to ground no.1 related to powers of adjustment as provided in Section 143(1)(a) of the Act are beyond the provisions of Income Tax Act, 1961 relating to Intimation under Section 143(1) of the Act. The Ld. AR submitted that the adjustment was made without giving any opportunity related to prior intimation to the assessee before finalising the demand and passing the Intimation Order under Section 143(1) of the Act. As regards to ground no.2, the Ld. AR submitted that the Co-op. Banks from where the interest has been derived at 36.46% that of Rs.90,41,679/- should have been allowed as the said interest when derived from the Co-op. Society Bank which is the registered Co-op. Society (Gujarat State Co-op. Bank Limited) and, therefore, it is a member of Society from where the assessee derived the interest income which is allowable deduction under Section 80P(2)(d) of the Act. The Ld. AR in alternate submitted that the basic deduction under Section 80P(2)(c) of the Act ought to be Rs.50,000/- should have been granted to the assessee.

6. The Ld. DR submitted that as regards to ground no.1, the assessee has been given prior intimation and, therefore, the same cannot be treated as invalid order as envisaged by the Ld. AR. The Ld. DR submitted that the order of the Assessing Officer is as per the provisions of Income Tax Statute. As regards to merits of the case, the Ld. DR submitted that the CIT(A) has categorically mentioned the decision of Hon'ble Apex Court in the case of Totgar's Co-operative Sale Society, 322 ITR 383 wherein it is held that the assessee would not be eligible for deduction under Section 80P(2)(d) of the Act in respect of interest income earned from Co-op. Bank Societies. The Ld. DR relied upon the decision of Hon'ble Kolkata High Court in case of Totgar's Co-operative Sales Society, 392 ITR 74 as well. The Ld. DR also relied upon the decision

of Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Limited vs. CIT, 123 taxmann.com 161 (SC).

7. Heard both the parties and perused all the relevant material available on record. As regards to ground no.1, the deduction under Chapter VIA was properly intimated through prior intimation and in fact the intimation under Section 143(1) of the Act categorically mentions that if the intimation requires to be rectified, the assessee may request for rectification under Section 154 of the Act. The contention of the Ld. AR that the prior intimation is required does not sustain as the same has been followed by the Revenue as per the procedural aspect of Section 143(1) of the Income Tax Statute. Thus, ground no.1 is dismissed. As regards to ground no.2, the assessee received interest income from Kheda District Co-op. Bank amounting to Rs.47,07,620/- and Gujarat State Co-op. Bank amounting to Rs.43,34,059/-, totalling to Rs.90,41,679/-. These two co-operative Banks are registered under the Gujarat Co-operative Society Act 1961 and also the member of the Co-operative Societies as envisaged under Section 80P of the Act and, therefore, in the light of the decision of Hon'ble Gujarat High Court in the case of Katlary Kariyana Merchant Sahkari Sarafi Mandali Limited vs ACIT (order dated 04.01.2022 - C/SCA/20585/2019 amended subsequently) the assessee is entitled for deduction under Section 80P(2)(d) of the Act. Thus, ground no.2 is allowed. As regards to ground no.3, which is alternate ground, and since ground no.2 is allowed does not survive. Thus, ITA No.417/Ahd/2024 is partly allowed.

8. As regards to ITA No.418/Ahd/2024, ground no.1 is similar to ground no.1 of ITA No.417/Ahd/2024 and hence dismissed. As regards to ground no.2, the assessee has derived interest income from Gujarat Co-operative Bank Limited which is also Co-operative Society, hence the deduction under Section 80P(2)(d) of the Act of Rs.5,28,203/- is allowed. Hence, ground no.2 is allowed. Ground no.3 is dismissed. Thus, ITA No.418/Ahd/2024 is partly allowed.

9. As regards to ITA No.587/Ahd/2024, the assessee has received interest income from Kheda District Co-op. Bank which is also registered under Gujarat Co-operative Societies Act. Hence, ground no.2 is allowed. As regards to ground nos.1 & 3, they

are identical to ITA No.417/Ahd/2024 hence dismissed. Thus, ITA No.587/Ahd/2024 is partly allowed

10. In the result, all the three appeals filed by the assessee are partly allowed.

Order pronounced in the open Court on this 29<sup>th</sup> August, 2024.

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 29<sup>th</sup> day of August, 2024**

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*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*