

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.4113/Mum/2024  
Assessment Year: 2017-18**

ITO-22(3)(1), Mumbai	Vs.	Adani Electricity Employees Co-operative Credit Society Limited  Quarters, Prabhat Colony Nehru Road, Santacruz (E), Mumbai-400055.  PAN: AAAAB 0016 E
(Appellant)		(Respondent)

**C.O. No.190/Mum/2024  
(Arising out of ITA 4113/Mum/2024)  
Assessment Year: 2017-18**

Adani Electricity Employees Co-operative Credit Society Limited  Quarters, Prabhat Colony Nehru Road, Santacruz E, Mumbai-400055.  PAN: AAAAB 0016 E	Vs.	ITO-22(3)(1), Mumbai
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Shri Dnyanesh Patade & Shri Rupesh Sawale  
Revenue by : Shri Ram Krishna Kedia (Sr. DR)

Date of Hearing : 19.09.2024  
Date of Pronouncement : 21.11.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

The appeal filed by the revenue and cross-objection filed by the assessee are directed against the order of Id. CIT(A), NFAC passed u/s 250 of the I.T. Act on 19.06.2024. The appeal filed by

the revenue and cross-objection filed by the assessee are adjudicated as under:

ITA 4113/Mum/2024 (Revenue Appeal)

*"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in allowing deduction u/s 80P(2)(d) of the Income Tax Act in respect of interest earned from deposits from cooperative bank ignoring the amendment made by Finance Act, 2015 in section 194A(3)(v) of the Act which excludes the Cooperative Banks from the definition of "Cooperative Society" and requiring them to deduct income tax at source under Section 194A of the Act that also makes the legislative intent clear that the Co-operative Banks are not that specie of genus cooperative society, which are entitled to claim deduction under the special provisions of Chapter VIA in the form of Section 80P of the Act."*

*2. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in allowing deduction u/s.80P(2)(d) of the Income Tax Act, 1961 in respect of interest earned from deposits in cooperative bank ignoring firstly, the purpose of bringing on the statute book subsection (4) in Section 80P of the Act to exclude the applicability of Section 80P of the Act altogether to any cooperative bank and secondly, ignoring the fact that words used in section 80P(4) are "in relation to that can include within its ambit and scope even the interest income earned by the respondent assessee, a co-operative Society from a Co-operative Bank and this exclusion by Section 80P(4) of the Act even though without any amendment in Section 80P(2)(d) of the Act is sufficient to deny the claim of the assessee for deduction under Section 80P(2)(d) of the Act."*

*3. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in allowing deduction u/s.80P(2)(d) of the Income Tax Act in respect of interest earned from deposits in cooperative bank ignoring that whether the deposits and investment of surplus funds of assessee not immediately required for its purposes, is made with Scheduled Bank or Nationalized Banks or with cooperative Banks does not make a difference as far as the character of the Income earned by assessee is concerned and it does not partake the character of its operational income from its activity as cooperative housing society, the*

*same would continue to be fully taxable and will not be eligible for deduction under section 80P(2)(d) of the Act."*

*4. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was correct in allowing deduction u/s.80P(2)(d) of the Income Tax Act, 1961 in respect of interest earned from deposits, though Hon'ble Karnataka High Court in a detailed judgment discussing the law and various related issues in the case of PCIT vs. Totagar's Co-operative Society Ltd, Mumbai Society (395 ITR 611) has specifically decided the Question of Law about the allowability of interest earned from deposits with co-operative bank u/s 80P(2)(d) of the Income tax Act in favour of Revenue."*

*5. The appellant craves leave to amend or alter or add a new ground which may be necessary."*

2. In this case assessment u/s 143(3) of the Act was completed on 05.12.2019 assessing total income at Rs. 2,16,92,330/- by disallowing the deduction claimed u/s 80P of the I.T. Act. The assessing officer held that the interest income earned by the assessee society from the deposit maintained with Co-operative Bank is not qualified for the deduction u/s 80P(2)(a)(i) of the Act in view of amended provision of section 80P(4) of the Act.

3. Aggrieved assessee filed before the ld. CIT(A). The ld. CIT(A) has allowed the appeal of the assessee after following the various decision of ITAT, Mumbai on the similar issue wherein it has been held that a Co-operative Bank is a Co-operative Society and interest earned by the Co-operative Society from the investment made with the Co-operative Bank is eligible for deduction u/s 80P(2)(d) of the Act.

4. Heard both the sides and perused the material on record. The assessee is a registered Employees Co-operative Credit Society governed by the Maharashtra State Co-operative Societies Act and it is engaged in providing credit facilities to its members who are employees of Adani Electricity Mumbai Ltd. We consider that it is settled issue as per the decision of ITAT, Mumbai in various cases wherein it is held that deduction u/s 80P(2)(d) of the Act is allowable to the extent of interest obtained from the deposits maintained with the co-operative banks. The ld. CIT(A) has also referred a number of judicial pronouncements of the ITAT, Mumbai in his findings. The relevant para 6 onward from the findings of ld. CIT(A) is reproduced as under:

*“6. As discussed above, the appellant is not eligible to claim 80P(2)(a)(i) however we need to examine the allowability of claim u/s 80P(2)(d). In this regard, attention is drawn to the following decisions of the jurisdictional ITATs on the issue of interest income earned from the deposits held with co-operative banks.*

- 1. Sea Grean Co-Operative Housing Society Vs ITO in ITA No. 1343/MUM/2017 dated 31.03.2017.*
- 2. Lands End Co-operative Housing Society Vs ITO in ITA No. 3566/Mum/2014 dated 15.01.2016.*
- 3. Lady Ratan Tower Co-operative Housing Society Ltd. vs. ITO in ITA No. 1152/Mum/2018 in decision dated 09.08.2018.*
- 4. Shree Mahadeshwar Sahakari Patpedhi Maryadit vs. ITO in ITA No. 374/Mum/2018 dated 06.03.2019.*
- 5. Kaliandas Udyog Bhavan Premises Co-operative Society vs. ITO in ITA No. 6547/Mum/2017 dated 25.04.2018.*

*6.1. In the above-mentioned decisions of the Mumbai Bench of the Hon'ble ITAT, it has been held that a Cooperative Bank is a Cooperative Credit Society and interest income earned by the Cooperative Society from the*

*Banks is eligible made with the Cooperative investment claim of deduction u/s. 80P (2) (d) of the Act.*

*6.2. In particular, the relevant Para No. 7 from the fifth order Kaliandas Udyog Bhavan. Premises Co-op. Society Ltd. vs. in ITA No. 6547/Mum/2017 dated 25.04.2018, is reproduced below:*

*‘We are of the considered view, that though the co-operative bank pursuant to the insertion of Sub-section (4) of Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but however, as a co-operative bank continues to be a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being enforced in any state for the registration of co-operative societies, therefore, the interest income derived by a co-operative society from its investments held with a co-operative bank, would be entitled for claim of deduction under Sec. 80P(2)(d) of the Act.’*

*6.3 Hence, respectfully following the decision of the Hon’ble ITATs discussed above, the AO is directed to allow the deduction u/s 80P(2)(d) of the Income Tax Act, 1961 to the extent of interest earned from the Co-operative Societies and Co-operative Banks. The appellant succeeds on this ground of appeal.”*

5. Following the decision of ITAT as referred above, we do not find any reason to interfere in the decision of ld. CIT(A), in allowing the deduction u/s 80P(2)(d) of the Act. Therefore, we do not find any merit in the ground of appeal filed by the revenue. Accordingly, all the grounds of appeal filed by the Revenue stand dismissed. In the result, the appeal of the revenue is dismissed.

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6. Since, we have allowed the claim of deduction of the assessee u/s 80P(2)(a)(d) of the Act, therefore, its cross-objection that assessee is eligible for deduction u/s 80P(2)(a)(i) of the Act has

become infructuous. Therefore, the same is dismissed. In the result, cross-objection filed by the assessee is dismissed.

7. In the result, appeal of the revenue and cross-objection filed by the assessee are dismissed.

Order pronounced in the open court on 21.11.2024.

**Sd/-**  
**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 21.11.2024  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai