

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

**(HYBRID HEARING)**

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष  
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.354/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2020-21)**

<b>Income Tax Officer - Ward - 1</b> Opp. Ganesh Canteen J.P. Road, Bhimavaram – 534202 Andhra Pradesh	v.	<b>The Yendagandhi Large Size Cooperative Society Limited</b> 4-16, KK Road, Yendagandhi West Godavari District – 534186 Andhra Pradesh  [PAN: AACAT0967G]
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

**सी.ओ सं. / C.O. No. 14/VIZ/2024**

**[आयक अपील सं. से उत्पन्न / ARISING OUT OF I.T.A. No. 354/VIZ/2024  
(निर्धारणवर्ष/ Assessment Year: 2020-21)]**

<b>The Yendagandhi Large Size Cooperative Society Limited</b> 4-16, KK Road, Yendagandhi West Godavari District – 534186 Andhra Pradesh  [PAN: AACAT0967G]	v.	<b>Income Tax Officer – Ward -1</b> Opp. Ganesh Canteen J.P. Road, Bhimavaram – 534202 Andhra Pradesh
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.12.2024
घोषणा की तारीख/Date of Pronouncement	:	13.12.2024

## आदेश / O R D E R

### PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the revenue against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1066247133(1) dated 29.06.2024 for the A.Y.2020-21 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short ‘Act’) dated 12.09.2022 and Cross objection is filed by the assessee in support of the order of the Ld. CIT(A).

2. At the outset, we proceed to adjudicate the appeal of the revenue in ITA No. 354/VIZ/2024 for the A.Y. 2020-21.

### ITA No. 354/VIZ/2024 (A.Y. 2020-21)

3. Brief facts of the case are that, assessee filed its return of income for the A.Y. 2020-21 on 24.02.2020 admitting a total Income of Rs. NIL after claiming deduction under section 80P of the Act of Rs. 2,00,04,431/-. The case was selected for scrutiny under CASS for scrutinising (i) High liabilities as compared to low income/receipts and (ii) Deduction from Total Income under chapter VI-A. Accordingly, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee, calling for

information. During the course of assessment proceedings, Ld. Assessing Officer [hereinafter in short "Ld. AO"] noticed that assessee had earned interest and dividend from Eluru District Central Co-operative Bank (in short "DCCB") and also interest from Andhra Pradesh Co-operative Bank and claimed deduction under section 80P of the Act. Further, Ld. AO issued notice under section 142(1) of the Act dated 07.03.2022 requesting the assessee to show-cause why the deduction claimed under section 80P of the Act should not be disallowed as the provisions of section 80P clearly stated that it does not apply to a cooperative bank. In response, assessee submitted that the DCCB and AP Cooperative bank are cooperative societies and hence deduction under section 80P of the Act must be allowed for interest and dividends earned from them and furnished the details as called for. After considering the submissions of the assessee, Ld.AO denied the claim made by the assessee. Ld.AO on considering the provisions of section 80P(2)(d) of the Act concluded that, this section only envisages interest from cooperative society and not a cooperative bank and completed the assessment determining total income at Rs.2,00,04,431/- by disallowing deduction under section 80P of the Act.

**4.** Aggrieved by the order of the Ld. AO, assessee filed an appeal before the Ld. CIT(A), NFAC, Delhi and filed its submissions. After considering the submissions of the assessee, Ld. CIT(A) allowed the appeal of the assessee.

5. Aggrieved by the order of the Ld. CIT(A), revenue is in appeal before us by raising the following grounds of appeal: -

*“1. The Order of the Ld.CIT(A), National Faceless Appeal Centre (NFAC), Delhi is erroneous in law and to the facts of the case.*

*2. The Ld. CIT(A) erred in adjudicating that the assessee society is entitled to claim deduction u/s.80P(2)(d) in respect of interest income earned from co-operative banks as the words 'cooperative society' mentioned in Sec.80P(2)(d) of the Income-tax Act includes the cooperative societies also which are carrying on banking business as cooperative banks. The Ld.CIT(A) erred in not observing that interest or dividend earned by an assessee cooperative society should be out of the investments with any other co-operative society. The words 'Co-operative Banks' are missing in clause (d) of sub section (2) of section 80P. Even though a cooperative bank may have the corporate body or skeleton of a co-operative society but its business is entirely different and that is the banking business, which is governed and regulated by the provisions of the Banking Regulation Act, 1949.*

*3. The Ld.CIT(A) erred in not observing the provisions of Sec.80P(4) of the Income-tax Act, 1961. The purpose of bringing on the statute book sub-section (4) in section 80P was to exclude the applicability of section 80P altogether to any co-operative bank and to exclude the normal banking business income from such exemption/deduction category. The words used in section 80P(4) are significant. They are: 'The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society. The words 'in relation to can include within its ambit and scope even the interest income earned by the assessee, a co-operative society from a Co-operative Bank. This exclusion by section 80P(4) even though without any amendment in section 80P(2)(d) is sufficient to deny the claim of the assessee for deduction under section 80P(2)(d).*

*4. The Ld.CIT(A) erred in not appreciating the fact that the Assessing Officer disallowed the claim of deduction u/s.80P of the I.T Act made by the assessee, in the assessment order dated 12-09-2022, clearly stated that the DCCB has been issued license by RBI u/s. 22(1) r.w. 56(0) of the Banking Regulation Act dated 06.02.2012 and therefore, the DCCB being a bank cannot be considered to be a Co-operative Society under the Income Tax Act, 1961.*

*5. The appellant craves leave to add or delete or amend or substitute any ground of appeal before and/or at the time of hearing of appeal.*

*6. For these and other grounds that may be urged at the time of appeal hearing, it is prayed that the above addition be restored.”*

6. With regard to Ground Nos. 1 to 3, Ld. Departmental Representative [hereinafter in short “Ld. DR”] argued that as per provisions of section 80P(2)(d) of the Act, interest earned from investments with any other cooperative society is only exempted not the interest from cooperative banks. Ld. DR vehemently supported the orders of the Ld. AO and pleaded to set-aside the order of the Ld. CIT(A).

7. Per contra, Ld. Authorised Representative [hereinafter “Ld.AR”] reiterated the submissions made before the Ld.CIT(A) and supported the order of the Ld.CIT(A). Ld.AR submitted that the assessee is not a cooperative bank and has invested its surplus funds which were immediately not required by the members, in a cooperative bank to earn interest. Ld.AR further submitted that the provisions of section 80P is not applicable only to cooperative banks and not to cooperative societies. Ld.AR relied on the decision of Hon’ble Madras High Court in the case of CIT v. The Salem Agricultural Producers Co-Operative Marketing Society Ltd in Tax Case Appeal No. 5 of 2015 dated 10.08.2016 and decision of the Co-ordinate Bench of the Tribunal in the case of Bheemunipatnam Mutually Aided Cooperative Building Society Limited v. ACIT in ITA Nos. 175, 176 & 177/VIZ/2024 dated 25.11.2024. Ld.AR pleaded to sustain the order of the Ld. CIT(A).

8. We have heard both the sides and perused the material available on record. We find that identical issue has been considered by the Co-ordinate Bench of the Tribunal in the case of Bheemunipatnam Mutually Aided Cooperative Building Society Limited v. ACIT (supra) and decided the issue in favour of the assessee, by observing as under: -

*“9. We have heard both the sides and perused the material available on record including the cases cited by both the parties. The main grievance of the assessee is with respect to denial of deduction under section 80P(2)(d) of the Act in respect of interest income received from cooperative banks. The provisions of section 80P(1) of the Act allows deduction under section 80P(2) of the Act to an assessee being a cooperative society. Section 80P(2)(d) of the Act is reproduced below for ready reference: -*

*"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 co-operative society from its investments with any other co-operative society, the whole of such income;”*

10. From the bare reading of the provisions of section 80P(2)(d) of the Act, assessee should satisfy two conditions namely (i) income by way of interest or dividend is earned by the cooperative society from the investments; and (ii) such investments should be with any other cooperative society. 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;”*

11. *In the instant case, it is not disputed that assessee is a cooperative society and therefore any income referred in sub-section (2) of Section 80P of the Act which is included in the gross total income of the assessee, shall be allowed as deduction. The revenue denied the deduction under section 80P(2)(d) of the Act stating that interest income is earned from the cooperative bank whereas in the said provision only grants deduction in respect of interest earned from cooperative society. The Hon'ble High Court of Madras in the case of Thorapadi Urban Co-op Credit Society Limited v. ITO (supra) held as follows: -*

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

12. *The Hon'ble High Court of Madras in the case of CIT v. The Salem Agricultural Producers Co-Operative Marketing Society Ltd (supra) also affirmed the view that interest income earned from cooperative bank by cooperative society is also eligible for deduction under section 80P(2)(d) of the Act. Further various Co-ordinate Benches of the Tribunal had consistently taken a view and held that interest income earned from cooperative bank were allowable as deduction under section 80P(2)(d) of the Act. Further, we are also of the considered view that provisions of section 80P(4) excludes only cooperative banks possessing licence from RBI to do banking business to claim deduction u/s 80P(2) of the Act. Therefore, it is relevant only in the case of cooperative banks which is claiming deduction u/s 80P and does not apply to deposits made with the cooperative bank which is also a registered cooperative society under the Cooperative society 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. The Case relied on by the Ld.DR is distinguishable on the facts that, in that case, the surplus funds which are liable to be paid to its members and shown on the liability side of the balance sheet was deposited with cooperative banks in order to circumvent the decision of the Hon'ble Supreme Court in the case of Totgar's cooperative Sale Society Ltd. v. ITO [ (2010) 322 ITR 283]. Since the facts in the instant case are different, this case is not of any help to the revenue. We are therefore inclined to set-aside the order passed by the Ld.CIT(A) and direct the Ld. AO to allow the deduction claimed by the assessee under section 80P(2)(d) of the Act. Thus, Ground raised by the assessee is allowed.*

11. *In the result, appeal of the assessee is allowed.”*

9. Respectfully following the decision of the Co-ordinate Bench, we are of the considered view that interest income earned from cooperative bank were allowable as deduction under section 80P(2)(d) of the Act and we do not find any reason to interfere with the findings of the Ld. CIT(A). Accordingly, Ground Nos. 1 to 3 raised by the revenue are dismissed.

10. With regard to Ground No. 4, Ld. DR relied on the orders of the Ld.Ld. AO and prayed to set-aside the order of the Ld. CIT(A).

11. Per contra, Ld.AR argued that this issue is covered in assessee's own case in ITA No. 243/VIZ/2022 for the A.Y. 2018-19. He therefore pleaded that the same ratio may be followed for the impugned assessment year also.

12. We have heard both the sides and perused the material available on record. As pointed out by the Ld.AR, this Bench in Para No. 8 of ITA No. 243/VIZ/2022 dated 22.11.2023 has discussed about the identical issue in assessee's own case for the A.Y. 2018-19. The Bench relied upon the decision of the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of Vavveru Cooperative Rural Bank Ltd., v. Chief Commissioner of Income Tax and Another [396 ITR 0371], wherein it was held as follows:

*"11. Further, the Hon'ble jurisdictional High Court of Andhra Pradesh and Telangana in the case of Vavveru Cooperative Rural Bank Ltd vs.*

*Chief Commissioner of Income Tax and Another (supra) held that the cooperative society is eligible for deduction U/s. 80P(2)(a)(i) of the Act on the interest income received from investment in banks. The Hon'ble High Court in paras 35 to 37 of its judgment held as under:*

*35. But, as rightly contended by the learned senior counsel for the petitioners, the investment made by the petitioners in fixed deposits in nationalised banks, were of their own monies. If the petitioners had invested those amounts in fixed deposits in other co-operative societies or in the construction of godowns and warehouses, the respondents would have granted the benefit of deduction under clause (d) or (e), as the case may be.*

*36. The original source of the investments made by the petitioners in nationalised banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".*

*37. Therefore, we are of the considered view that the petitioners are entitled to succeed. Hence, the writ petitions are allowed, and the order of the Assessing Officer, in so far as it relates to treating the interest income as something not allowable as a deduction under section 80P(2)(a), is set aside."*

*12. Further, the Coordinate Bench of Hyderabad in Tirumala Tirupati Devasthanams Employees Coop. Credit Society vs. ITO also affirmed the same view by following the decision of the Hon'ble AP High Court in the case of Vavveru Cooperative Rural Bank Ltd (supra). In the instant case also, the assessee has invested surplus funds out of the activities carried out as per the provisions of section 80P(2)(a) of the Act. We therefore by respectfully following the jurisdictional High Court are of the view that interest income should be allowed as deduction U/s. 80P(2)(a)(i) of the Act and thereby the Ld. CIT(A)- NFAC has rightly held by deleting the addition made by the Ld. AO and hence we find no infirmity in the order of the Ld. CIT(A)-NFAC.*

*13. In the result, appeal of the Revenue is dismissed."*

**13.** Respectfully following the decision of the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of Vavveru Cooperative Rural Bank Ltd v. Chief Commissioner of Income Tax and Another (supra) and also the ratio laid down by the Co-ordinate Bench of the Tribunal in assessee's own case,

we have no hesitation to delete the addition made by the Revenue authorities with respect to interest received from the surplus invested in DCCB and thus ground raised by the revenue is dismissed.

**14.** In the result, appeal of the revenue is dismissed.

**C.O. No. 14/VIZ/2024**

**15.** Assessee has raised following grounds in its cross objection: -

*1. The learned Commissioner of Income Tax (Appeals) is justified in deleting the addition of Rs.2,00,04,431 made by the assessing officer towards disallowance of deduction u/s 80P of the Act.*

*2. The learned Commissioner of Income Tax (Appeals) is justified in holding that the interest and dividend received by the appellant from DCCB is eligible for deduction u/s 80P(2)(d) of the Act.*

*3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in holding that the interest and dividend received from DCCB is not eligible for deduction u/s 80P(2)(a) of the Act.*

*4. Any other grounds of Cross-Objection that may be raised at the time of hearing.”*

**16.** Further, assessee has filed a petition under Rule 27 of ITAT Rules, 1963, which is reproduced below: -

*“1. The respondent is Co-Operative Society providing credit facilities to its members. Therefore, the Respondent is eligible for deduction u/s 80P(2)(a)(i). Further, the Respondent invested certain funds in APCOB and DCCB. Since, APCOB and DCCB are also co-operative societies, the interest/dividends received from APCOB & DCCB are eligible for deduction u/s 80P(2)(d). The Respondent claimed deduction of Rs.2,00,04,431 u/s 80P(2) in the return of income claimed. The assessing officer disallowed this deduction on the ground that the Respondent is not eligible for deduction either u/s 80P(2) (a)(i) or 80P(2)(d) of the Act.*

2. Before the learned Commissioner of Income Tax (Appeals) the Respondent contended that the income of the Respondent is eligible for deduction both u/s 80P(2)(a)(i) and u/s 80P(2)(d) of the Act. The learned Commissioner of Income Tax (Appeals) held that the Respondent is eligible for deduction u/s 80P(2)(d) of the Act and directed the assessing officer to grant deduction in respect of the interest income received by the Respondent from the Cooperative Bank. The relevant findings are at para 5.9 and 5.10 of the order of the learned Commissioner of Income Tax (Appeals). However, the learned Commissioner of Income Tax (Appeals) dismissed the other ground raised by the Respondent that the income of the appellant is eligible for deduction u/s 80P(2)(a)(i) of the Act.

3. Being aggrieved with the order of the learned Commissioner of Income Tax (Appeals) the Revenue preferred the above mentioned appeal and the grounds raised by the revenue are on the point that the Respondent is not eligible for deduction u/s 80 P(2)(d) of the Act.

4. As per Rule 27 of the Income Tax Appellant Tribunal Rules, 1963 the Respondent is enabled to support the order appealed against on any of the grounds decided against him. In pursuance of the said Rule, the Respondent would like to support the order the learned Commissioner of Income Tax (Appeals) on the following ground that was decided against the Respondent by the learned Commissioner of Income Tax (Appeals).

*"On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) is not justified in holding that the interest received by the Respondent from Co-Operative Banks is not eligible for deduction u/s 80P(2)(a)(i) of the Act."*

5. The Respondent prays the notice ITAT, Visakhapatnam Bench to kindly admit the above petition filed in accordance with Rule 27 of the ITAT, Rules 1963 and pass appropriate orders in the interest of rendering substantial justice."

**17.** The assessee filed cross objections in support of the order of the Ld.CIT(A). Since the grounds raised by the revenue are dismissed, the cross objection filed by the assessee becomes infructuous, hence, Ground Nos. 1 to 3 raised by the assessee are dismissed.

**18.** Further, with regard to petition filed under Rule 27 of IT Rules, 1963, since the grounds raised by the Revenue is dismissed and the issues decided

in favour of the assessee, adjudication of the petition is merely academic in nature and hence not adjudicated.

19. To sum-up, appeal of the revenue as well as cross objection filed by the assessee are dismissed.

Order pronounced in the open court on 13<sup>th</sup> December, 2024.

**Sd/-**  
**(के.नरसिम्हा चारी)**  
**(K. NARASIMHA CHARY)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**  
Dated: 13.12.2024  
Giridhar, Sr.PS

**Sd/-**  
**(एस बालाकृष्णन)**  
**(S. BALAKRISHNAN)**  
**लेखा सदस्य/ACCOUNTANT MEMBER**

**आदेशकीप्रतिलिपिअप्रेषित/ Copy of the order forwarded to:-**

1. निर्धारिती/ The Assessee : **The Yendagandhi Large Size Cooperative Society Limited**  
4-16, KK Road, Yendagandhi  
West Godavari District – 534186  
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer - Ward - 1**  
Opp. Ganesh Canteen  
J.P. Road, Bhimavaram – 534202  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam