

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2344 to 2348/PUN/2024 and
ITA No.2408/PUN/2024

निर्धारण वर्ष / Assessment Years : 2014-15 to 2016-17, 2018-19,
2020-21 and 2017-18

Armed Forces Ex Officers Multi Services Co-operative Soc, 364, Likmanya Tilak Sabha Griha, Pune – 411016. PAN: AAAAAA1185H	Vs.	The Income Tax Officer, NFAC.
Appellant		Respondent

Assessee by : Shri Shweta Joshi - CA

Revenue by : Shri Ramnath P Murkude - DR

Date of hearing : 13.02.2025

Date of pronouncement : 25.02.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This bunch of six appeals filed by the Assessee are directed against the separate orders of Id.Commissioner of Income Tax(Appeals)[NFAC] under section 250 of the Income Tax Act, 1961; for the assessment years referred above. Assessee has filed identical grounds for all these years. Since the issue involved is common, therefore, all these appeals were heard together and are

being decided by this common order. We treat Appeal for Assessment Year 2014-15 as lead case :

“1) The Learned Assessing Officer erred in disallowing the claim of deduction made under section 80P(2)(d) of INR 1,88,32,471 The Learned Assessing Officer erred in not considering the Co-operative Banks as Co-operative Societies for the purpose of this section. The learned assessing officer erred in not taking cognisance of clarification published by CBDT vide circular no. 133 of 2007 dated 09 May 2007 wherein it was stated that provision of section 80P(4) are not applicable to the co-operative societies which are not co-operative banks. The learned assessing officer erred in not taking cognisance of various case laws cited in the submission including the decision of Pune ITAT dated 07 January 2022 The learned assessing officer while relying on the decision of the Honourable High Court of Karnataka erred in not considering the decisions passed by other Honourable High Courts which were in favour of the Appellant Society The learned Assessing Officer erred in not considering the precedent set by the Honourable Supreme Court, that when decisions of non-jurisdictional high courts contradict, the decision favourable to the Assessee should be considered. The learned assessing officer erred in applying the logic of the concept of mutuality while disallowing the deduction under section 80P Whereas deduction under section 80P is allowed on the Interest earned from the fixed deposits and savings bank accounts with the other cooperative society even if it is not a member of the other cooperative society

2) Tax credits such as TDS Advance and self-assessment tax paid for the has not been given while computing final tax liability

3) The appellant craves leave to add, alter, amend, modify and or delete any or all of the grounds of appeal mentioned herein above.

Ground No 1 stand dismissed vide the order passed under section 250 of the Act.

For Armed Forces Ex-Officers' Multi-services Co-operative Society Ltd.”

2. The facts of the case, in brief, are that the assessee is a multi services cooperative society registered under Maharashtra Co-operative Societies Act. The assessee derives income under the head “Income from other sources” mainly from interest income from other cooperative society. The return of income was filed on 25.11.2014 declaring total income of Rs.364,78,685/- after claiming deduction of Rs.1,88,32,471/- u/s 80P(2)(d) of the IT Act regarding interest income from other cooperative societies.

2.1 The case was selected for scrutiny and notice u/s.143(2) of the Act dated 31.08.2025 was issued and served upon the assessee. Thereafter assessment was completed u/s 143(3) of the Income Tax Act on 06.12.2016 accepting the returned income declared by the assessee. Thereafter, a notice u/s 148 was issued on 28.03.2021 and served upon the assessee. The reason for reopening the

assessment was that the assessee has claimed deduction u/s 80P(2)(d) of Rs.1,88,32,471/- on account of interest income earned on its investments with other Co-operative Banks which is not allowable in the light of judgement of the Hon'ble High Court of Karnataka in the case of PCIT, Hubballi vs. Totagars Co-operative Sale Society, 395 ITR 611 order dated 16.06.2017, wherein, it was held that the interest earned by a cooperative society from surplus, deposits, cash with a cooperative bank was not eligible for deduction u/s 80P(2)(d) of the IT Act. The notice u/s.142(1) was issued along with questionnaire. The Assessing Officer was of the view that the assessee society has to invest funds with cooperative society and not with cooperative banks. Therefore, the Assessing Officer disallowed the deduction of Rs.1,88,32,471/- claimed by the assessee society u/s 80P(2)(d) of the IT Act & vide order dated 10.03.2022 the assessment order was passed u/s 147 r.w.s. 144 r.w.s. 144B of the IT Act.

3. The Id.Authorised Representative for the Assessee submits that similar grounds have already been decided in favour of the assessee by the Co-ordinate Bench in assessee's own case for the

Assessment Year 2013-14 in ITA No.787/PUN/2014 where it has been held as under :

“8. We have heard the ld. Counsels from both the sides and perused the material available on record including the case laws furnished by assessee in the paper-book. We find that the ld. CIT(A)/NFAC has confirmed the disallowance made by the Assessing Officer u/s 80P(2)(d) of the IT Act on the basis of judgement of Hon'ble High Court of Karnataka in the case of PCIT, Hubballi vs. Totagars Co-operative Sale Society, 395 ITR 611 order dated 16.06.2017, not being business income of the assessee cooperative society. We find that this issue is squarely covered by various decisions of the Jurisdictional Co-ordinate Benches of this Tribunal, wherein, it has been held that the interest income earned by a co-operative society from any other co-operative society on its investments is eligible for deduction u/s 80P(2)(d) of the IT Act. It is worthwhile to mention here that though the co-operative banks pursuant to the insertion of sub-section (4) to section 80P would no more entitle for claim of deduction u/s 80P of the IT Act but as a co-operative bank continues to be a co-operative societies registered under the Co-operative Societies Act in any State, 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 u/s 80P(2)(d) of the IT Act. In this regard, we find support from the following decisions passed by the Co-ordinate Benches of this Tribunal :-

- (i) Kolhapur District Central Co-op. Bank Kanista Sevakanchi Sahakar Patsanstha Ltd. vs. ITO, ITA No.1365/PUN/2023, A.Y. 2018-19, dated 01.01.2024.
- (ii) Rena Sahakari Sakhar Karkhana Ltd. vs. PCIT-2, Aurangabad, ITA No.1249/PUN/2018, A.Y. 2013-14, order dated 07.01.2022.

- (iii) *Hilla Heights Co-operative Vs. ADIT, ITA No.2850/MUM/2022, A.Y. 2020-21, dated 03.04.2023.*
- (iv) *Amore Commercial Premises Co-op. Society Ltd. vs. CPC, ITA Nos.2873 & 2874/M/2022, A.Y. 2020-21, dated 17.01.2023.*
- (v) *Dhanshree Multistate Cooperative Society Ltd., ITA No.463/PUN/2024 order dated 13-06-2024.*
- (vi) *Karmveer Bhaurao Patil Nagri Sahkari Patsanstha Maryadit, ITA No.1045/PUN/2023 order dated 21-02-2024.*

9. *Therefore, respectfully following the above decisions, we find that the interest income earned by the assessee co-operative society on its investments made with other co-operative banks being a co-operative society entitles for deduction u/s 80P(2)(d) of the IT Act. We therefore allow ground no.1 raised by the assessee and direct the Assessing Officer to allow the deduction of Rs.1,65,02,105/- u/s 80P(2)(d) of the IT Act.*

3.1 Thus, respectfully following the above decision of Coordinate Bench of the Tribunal in assessee's own case for A.Y.2013-14 and in absence of any contrary material brought to our notice by the Id.Departmental Representative for the Revenue, we agree with the argument of Id.Counsel for the assessee that the interest income earned by the assessee co-operative society on its investments made with other co-operative banks being a co-operative society is entitled for deduction u/s 80P(2)(d) of the IT Act. Accordingly, we direct the Assessing Officer to allow the

deduction of Rs.1,88,32,471/- u/s 80P(2)(d) of the IT Act.

Accordingly, Ground No.1 raised by the assessee is allowed.

4. Now, coming to the second ground of appeal, we find that this ground has already been allowed by Id. CIT(A)/NFAC in first appellate proceedings, therefore, this Ground No.2 becomes infructuous. Accordingly, the same is dismissed.

5. In the result, the appeal filed by the assessee stands partly allowed.

ITA Nos.2345 2346, 2347, 2348 and 2408/PUN/2024 :

6. Since we have already decided the appeal of the Assessee for in ITA No.2344/PUN/2024 at length. The facts of A.Y.2014-15 are identical to **ITA Nos.2345 2346, 2347, 2348 and 2408/PUN/2024**, the grounds of appeal raised by the Assessee of these appeals are also identical. Therefore, the decision of A.Y.2014-15 shall apply *mutatis-mutandis* to all these appeals i.e. **ITA Nos.2345 2346, 2347, 2348 and 2408/PUN/2024** also. Accordingly, grounds of appeal raised by the Assessee in these five appeals are partly allowed.

7. In the result, appeals of the Assessee in **ITA Nos.2345, 2346, 2347, 2348 and 2408/PUN/2024** are Partly Allowed.

8. To sum up, all the six appeals raised by the Assessee are Partly Allowed.

Order pronounced on this 25th day of February, 2025.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 25th February, 2025 / SGR*
आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune