

**आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT**  
**AND**  
**MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA Nos.2070 & 2071/PUN/2024**  
**निर्धारण वर्ष / Assessment Years : 2018-19 & 2021-22**

Nashik District Primary Teachers Co-op Credit Society Ltd., Saraswati Complex, Malviya Chowk, PanchavatiKaranja, Nashik-422002  PAN : AAAAN2859D	<b>Vs.</b>	ITO, Ward – 1(1), Nashik
<b>अपीलार्थी /Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	ShriSanket Joshi
Department by :	ShriRamnath P. Murkunde
Date of hearing :	31-12-2024
Date of Pronouncement :	28-02-2025

**आदेश / ORDER**

**PER ASTHA CHANDRA, JM :**

These two appeals filed by the assessee is directed against the two separate orders both dated 22.08.2024 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**“CIT(A)”**] pertaining to Assessment Year (**“AYs”**) 2018-19 and 2021-22. Since the issues involved are identical the same were heard together and are disposed of by this common order.

**ITA No. 2070/PUN/2024, AY 2018-19**

2. The assessee has raised the following grounds of appeal:-

- “1. The learned CIT(A) erred in confirming the disallowance of deduction u/s 80P(2)(a)(i) of Rs.9,52,501 in respect of interest earned from Co-operative bank without appreciating that the said disallowance was not justified in law and on facts.
2. The Ld. CIT(A) failed to appreciate that the assessee society was engaged in the activity of providing credit facilities to its members and therefore, the interest income received on funds parked/ investments made with co-operative banks constituted business income in the hands of the assessee society and hence, the deduction u/s 80P(2)(a)(i) was allowable in respect of the said income.
3. The appellant craves leave to add/ alter/ amend any of the grounds of appeal”

**ITA Nos. 2071/PUN/2024, AY2021-22**

2.1 The assessee has raised the following grounds of appeal:-

- “1. The learned CIT(A) erred in confirming the disallowance of deduction u/s 80P(2)(a)(i) of Rs.10,36,508 in respect of interest earned from Co-operative /nationalized bank without appreciating that the said disallowance was not justified in law and on facts.
2. The Ld. CIT(A) failed to appreciate that the assessee society was engaged in the activity of providing credit facilities to its members and therefore, the interest income received on funds parked/ investments made with co-operative/nationalized banks constituted business income in the hands of the assessee society and hence, the deduction u/s 80P(2)(a)(i) was allowable in respect of the said income.
3. The appellant craves leave to add/ alter/ amend any of the grounds of appeal”

3. Briefly stated, the common facts involved in both the above appeals are that the assessee is a Credit Co-Operative Society registered under the Maharashtra State Co-operative Society Act, 1960 and is engaged in the business of providing credit facilities to its members. For A.Y. 2018-19, the assessee filed its return on 17.10.2018 declaring total income of Rs. Nil after claiming deduction of Rs.2,59,57,890/-u/s. 80P of the Income Tax Act, 1961 **(the “Act”)**. For A.Y. 2021-22, the assessee filed its return on 31.01.2022 (within the extended time-limit upto 28.08.2022 due to Covid) declaring total income at Rs.NIL after claiming deduction u/s. 80P of Rs.2,60,09,988/-. The assessee claimed deduction u/s. 80P(2)(a)(i)/80P(2)(d) in respect of interest income earned from co-operative banks during the A.Y. 2018-19 amounting to Rs.9,52,501/- and interest income earned from co-operative banks/ nationalized banks during the A.Y.2021-22 amounting to Rs. 10,36,508/-. The Ld. Assessing Officer **(“AO”)** completed the assessment ex-parte for both the AYs involved by disallowing the deduction claimed by the assessee u/s 80P of the Act and assessing the income of the assessee at Rs. 2,59,57,890/- for A.Y. 2018-19 and Rs.2,60,09,988/- for A.Y. 2021-22 vide his two separate order(s) dated 11.04.2021 and 15.12.2022 passed u/s. 144 r.w.s 144B of the Act.

4. Aggrieved, the assessee filed appeal(s) before the Ld. CIT(A) challenging the said disallowance of assessee’s claim of deduction u/s. 80P of the Act. The Ld. CIT(A) partly allowed the appeal of the assessee by recording his common observations and findings for both the AYs involved (except the variance in the amount of deduction claimed) which is reproduced below:

*“6.1 I have considered the facts of the case and material on record. All the grounds of appeal are hereby dealt together*

*6.2 The appellant, a co-operative credit society, registered under Maharashtra State Co-Op. Societies Act, 1960 and is engaged in the business of providing credit facilities to its members, has filed its return of income for the AY 2018-19 on 17.10.2018 declaring total income at Rs. NIL after claiming deduction u/s 80P of Rs.2,59,57,890/-, The case was processed u/s 143(1) of the Income Tax Act, 1961. Subsequently, the case was selected under CASS for limited scrutiny to verify 'Deduction claimed under Chapter VI. During the assessment proceeding various notices were issued and served to the assessee. But the assessee failed to comply with these notices. Therefore, the AO completed the assessment proceeding u/s 144, assessing the income at Rs.2,59,57,890/- by disallowing the deduction claimed u/s 80P of the Act. Aggrieved by the above order of the AO, the appellant preferred the present appeal.*

*6.3 The appellant during the appellate proceedings submitted that the assessee is undisputedly a co-operative society registered under Maharashtra State Co-operative Act, 1960, and is engaged in the activity of providing credit facilities to it's members. This fact is evident from the copy of P&L A/c and Balance Sheet of the society, tax audit report and also registration certificate and by laws of the society. Therefore, as per provisions of section 80P(2)(a)(i), the assessee is eligible for deduction under the said section.*

*During appellate proceedings, the appellant also relied on various decisions of Jurisdictional ITAT, Pune. In these cases decisions were made in favour of the assessee by allowing the deduction u/s 80P of the act.*

*6.4 The submissions of the appellant are carefully considered. In this context attention is drawn to the decision of the Honourable Supreme Court in the case of Mavilayi Service Cooperative Bank (123 taxman.com 161), the gist and the ratio are laid down by the Honourable Supreme Court in this decision are as follows:*

***a) The ratios laid down by the Supreme Court in the aforesaid order are as follows:***

i) The Supreme Court's earlier decision in the case of Citizen Cooperative Society relied by the Assessing Officer was set aside, for various reason elaborated there on. (Para 26).

ii) It was further held that, to claim deduction u/s 80P, it is enough if the assessee just a "cooperative society".

iii) Further classification of a cooperative society as primary agricultural society or not, is irrelevant.

iv) The cooperative society must be providing credit facilities to its members, to make it eligible for the said deduction.

v) The relevant statutory provision DOES NOT requires a cooperative society assessee to be a primary agricultural credit society to claim a deduction u/s. 80P(2)(a)(i).

vi) To claim the deduction u/s 80P, the credit facilities given to the members need not be only be agricultural credit alone.

b) Thus to sum up, it was held by the Honourable Supreme Court that deduction u/s 80P(2)(a) is to be given to all cooperative societies, even if they provide non-agricultural loans to its members.

c) However, it has also held that deduction cannot be given on the profits and gains attributable to credit facilities given to non-members. (Para 33 & 45).

d) It was also held that the loans given to nominal members would also qualify for the purpose of deduction u/s 80(P)(2)(a)(i)

6.5 This decision shows that deduction can be allowed on the profits attributable to the cooperative societies which are transacted with its members such as regular, associate and nominal members only, which is related to cooperative movement in particular.

6.6 The Supreme Court has also held that a cooperative Society which provides credit facility to its members eligible for deduction in the section 80P, even if the credit facilities given are found to be non-agricultural

credits also. It is also held that the loans given to the nominal numbers (who do not have any voting rights) would also qualify for the purpose of deduction under section 80P(a)(i). In the light of the ratio's laid down by the aforesaid Supreme Court decision, the deduction u/s 80P(2)(a) is allowed, subject to the conditions that profits attributable to non-members (excluding Regular, Associate and nominal members) to be excluded for the purpose of the same deduction.

6.7 However the issue of the appellant also relates to disallowance of deduction u/s 80P(2)(d) of the Act. The ratio held down by the Supreme Court's decision in the case of Totagars Co-operative Sale Society vs. ITO in 188 taxmann.com 282 (SC) is applicable to decide the taxability of interest income u/s 80P(2)(d) also.

i) The character or nature of interest income received on the investment or deposits from a schedule bank or co-operative bank is the same. It is not a business income taxable u/s.28, but it is taxable as income from other sources u/s 56.

ii) Only on such business income or operational income, deduction u/s 80P, can be allowed. Deduction u/s 80P cannot be allowed on interest income ; which is not chargeable to tax under the head business income; but chargeable to tax under the head income from other sources.

iii) Co-operative banks cannot be equated with co-operative societies. The words "co-operative banks are missing in clause (d) of sub-section (2) of Section 80P.

iv) Section 80P(4) excludes the applicability of deduction under section 80P. altogether to any co-operative bank and to exclude the normal banking business income from deduction u/s 80P.

v) The words used in Section 80P(4) "in relation to", can include within its ambit and scope the interest income earned by any co-operative society from a co-operative bank; and thus deny the applicability of deduction u/s 80P altogether, on interest income earned from such co-operative banks also.

vi) The amendment of Section 194A(3)(v) excluding co-operative banks from the definition of co-operative society by Finance Act 2015, makes legislative intent clear that co-operative banks treated differently from that of co-operative society,

vii) While section 194A(3)(v) has been so amended, Section 80P(2)(d) has not been amended to include co-operative banks explicitly

viii) Provisions relating to exemption and deduction need to be strictly construed and no liberal interpretation on intendment can be inferred in such provisions. An interest income not allowed as deduction u/s 80P(2)(a) cannot be allowed u/s 80P(2)(d) just because the investments have been shifted from a scheduled bank to a co-operative bank. When done so, the interest income so earned still continues to be not attributable to its business operations, and hence it is to be assessed to tax under the head income from other sources u/s 56 only.

6.8 Further Hon'ble Supreme Court in its decision in the case of Mavilayi service co-operative bank (dated 12<sup>th</sup> January 2021) has held that the interest income earned by a co-operative society from investments with other co-operative societies are entitled for deductions and the object of the provisions of section 80P(2)(d) is being furtherance of the co-operative movement as a whole. The relevant para 35 is hereby reproduced:

"...Eighthly, sub-clause (d) also points in the same direction, in that interest or dividend income derived by a co-operative society from investments with other co-operative societies, are also entitled to deduct the whole of such income, the object of the provision being furtherance of the co-operative movement as a whole..."

6.9 It's also further pointed out that the Hon'ble Supreme Court in the aforesaid case of Mavilayi Service Co-operative Bank, has held that profits attributable to the non-member are not eligible for deduction u/s 80P(2)(a) In this context its hereby held that the Interest Income earned from Scheduled Banks & Cooperative banks are also from non-member category and hence cannot be considered for deduction u/s 80P(2)(a) nor u/s 80P(2)(d) and would be appropriate to be annexed u/s 56 only.

*6.10 Thus, under these circumstances as discussed from the Supreme Court decision in the case of Totagars Co-operative Sale Society and Mavilayi Service Co-operative Bank: It is held that since the assessee is a co-operative society and deals with the members hence eligible for the deduction u/s 80P but the interest income which earned by the assessee from any scheduled banks or co-operative banks should be taxed u/s 56 as income from other sources. The AO is hereby directed to allow the deduction u/s 80P to the extent of the order of the Apex court in the above mentioned case as much applicable in this case. Hence, the relevant grounds of appeal raised in this regard are hereby partly allowed.”*

5. The Ld. AR submitted that the impugned issue is covered in favour of the assessee by the various decisions of the co-ordinate bench of the Tribunal. In support thereof, he placed relied on the decision(s) of the Pune bench of the Tribunal in the case of Lake Town Co-operative Housing Society Ltd., ITA No. 88/PUN/2024, dated 07.05.2024 and in the case of Vivekvardhani NagariSahakari Patsanstha Ltd. in ITA No.888/PUN/2024, dated 05.08.2024.

6. The Ld. DR supported the order of the Ld. CIT(A)/ AO.

7. We have heard the Ld. Representative of the parties and perused the material available on record. The facts are not in dispute. During the A.Y.2018-19, the assessee earned interest income of Rs. 9,52,501/- from investments made with cooperative banks which has been disallowed by the Ld. AO for want of any supporting evidences/documents/details furnished before him by the assessee. Similarly, for A.Y. 2021-22 the assessee earned interest income of Rs. 10,36,508/- from the deposits made with co-operative banks as well as nationalized banks which was disallowed by the Ld AO since the same remained unexplained by the assessee by furnishing the supporting evidences/documents before him. The Ld. CIT(A) partly allowed the appeal of the assessee for the similar reasons reproduced in the preceding paragraphs for both the AY(s) involved in the present appeal(s). We find that the impugned issue is squarely covered in favour of the assessee by catena of judicial precedents rendered by various judicial forums including the co-ordinate benches of the Tribunal.

7.1 In the case of Lake Town Co-operative Housing Society Ltd. (supra), the Pune bench of the Tribunal observed and held as under:

“4. We note in this factual backdrop that the first and foremost issue herein of sec.80P deduction on assessee’s interest income of Rs.73,85,493/- derived from deposits in cooperative bank(s) deserves to be accepted in light of *The Rena Sahakari Sakhar Karkhana Ltd. vs. PCIT’s ITA.No.1249/PUN./2018* dated 07.01.2022 in assessee’s favour and against the department as under :

“3. After culmination of the assessment proceedings, the Pr. CIT called for the assessment records of the assessee. It was observed by the Pr. CIT that the assessee had during the year shown interest income from FDs with Co-operative Banks amounting to Rs.75,38,534/-, against which it had claimed deduction under Sec.80P(2)(d) of the Act. It was observed by the Pr. CIT, that the A.O while framing the assessment had allowed the aforesaid claim of deduction raised by the assessee. Observing, that as co-operative banks were commercial banks and not a co-operative society, therefore, the Pr. CIT was of the view that the assessee was not eligible for claim of deduction under Sec.80P(2)(d). In the backdrop of his aforesaid conviction, the Pr. CIT was of the view that the assessment order passed by the A.O under Sec.143(3), dated 07.03.2016, therein allowing the assessee’s claim for deduction under Sec. 80P(2)(d), had therein rendered his order as erroneous, insofar it was prejudicial to the interest of the revenue. Accordingly, the Pr. CIT not finding favour with the reply of the assessee, wherein the latter had tried to impress upon him that it was duly eligible for claim of deduction under Sec.80P(2)(d) of the Act, therein “set aside” the order of the A.O with a direction to redecide the issue afresh and reframe the assessment.

4. The assessee being aggrieved with the order of the Pr. CIT has carried the matter in appeal before us. As the present appeal involved a delay of 52 days, therefore, the ld. A.R took us through the reasons leading to the same. It was submitted by the ld. A.R that as the then counsel of the assessee society who was looking after its tax matters, viz. Shr. Ravikiran Pandurang Todkar, Chartered Accountant was taken unwell due to kidney failure and had undergone kidney transplant, therefore, due to his unavailability the appeal could not be filed within the stipulated time period. Our attention was drawn towards the “affidavit” of the assessee society wherein the aforesaid facts were deposed. On the basis of the aforesaid facts, it was submitted by the ld. A.R that the delay involved in filing of the present appeal in all fairness may be condoned. Per contra, the ld. D.R did not object to the seeking of condonation of the delay in filing of the appeal by the assessee society. After giving a thoughtful consideration, we are of the considered view, that as there were justifiable reasons leading to delay on the part of the assessee in filing of the present appeal before us, therefore, the same merits to be condoned.

5. On merits, it was submitted by the ld. A.R, that as the A.O while framing the assessment had after making necessary verifications taken a plausible view, therefore, the Pr. CIT had exceeded his jurisdiction by seeking to review the order passed by him in the garb of the revisional powers vested with him under Sec.263 of the Act. It was submitted by the ld. A.R, that the issue as regards the eligibility of the assessee for claim of deduction under Sec.80P(2)(d) on interest income derived from investments/deposits lying with co-operative banks was squarely covered by the various orders of the coordinate benches

of the Tribunal viz., (i). M/s Solitaire CHSLtd.vs.Pr.CIT,ITANo.3155/Mum/2019;dated 29.11.2019 (ITAT "G" Bench, Mumbai); Kaliandas Udyog Bhavan Premises Co-op Society Ltd. Vs. ITO-21(2)(1), Mumbai, ITANo.6547/Mum/2017 (ITAT Mumbai); and (iii). Majalgaon Sahakari Sakhar Karkhana Ltd. Vs. ACIT, Circle-3,Aurangabad, ITANo,308/Pun/2018 (ITAT Pune). On the basis of his aforesaid contentions, it was averred by the ld. A.R that as the Pr. CIT had exceeded his jurisdiction and had not only sought to review the plausible view that was taken by the A.O after necessary deliberations which was in conformity with the order of the jurisdictional bench of the Tribunal, therefore, his order may be vacated and that of the A.O be restored.

6. Per contra, the ld. Departmental Representative (for short "D.R") relied on the order passed by the Pr. CIT under Sec.263 of the Act. It was submitted by the ld. D.R, that as the assessee was not eligible for claim of deduction under Sec.80P on the interest income received on the investments/deposits lying with the co-operative banks, therefore, the Pr. CIT finding the assessment order passed by the A.O under Sec.143(3), dated 07.03.2016 as erroneous, insofar it was prejudicial to the interest of the revenue, had rightly "set aside" his assessment with a direction to re-adjudicate the issue therein involved. Our attention was also drawn by the ld. D.R to his written submissions and certain judicial pronouncements in support of his aforesaid contention.

7. We have heard the ld. authorised representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as the judicial pronouncements relied upon by them. Our indulgence in the present appeal has been sought, for adjudicating, as to whether or not the claim of the assessee for deduction under section 80P(2)(d) in respect of interest income earned from the investments/deposits made with the co-operative banks is in order. In our considered view, the issue involved in the present appeal hinges around the adjudication of the scope and gamut of sub-section (4) of Sec. 80P as had been made available on the statute, vide the Finance Act 2006, with effect from 01.04.2007. On a perusal of the order passed by the Pr.CIT under Sec. 263 of the Act, we find, that he was of the view that pursuant to insertion of sub-section (4) of Sec. 80P, the assessee would no more be entitled for claim of deduction under Sec. 80P(2)(d) in respect of the interest income that was earned on the amounts which were parked as investments/deposits with the co-operative bank, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Observing, that the co-operative banks from where the assessee was in receipt of interest income were not cooperative societies, the Pr. CIT was of the view that the interest income earned on such investments/deposits would not be eligible for deduction under Sec. 80P(2)(d) of the Act.

8. After necessary deliberations, we are unable to persuade ourselves to concur with the view taken by the Pr. CIT. Before proceeding any further, we may herein cull out the relevant extract of the aforesaid statutory provision, viz. Sec. 80P(2)(d), as the same would have a strong bearing on the adjudication of the issue before us.

"80P(2)(d)(1).

Where in the case of an assessee being a co-operative

society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub- section (2), in computing the total income of the assessee.

(2). Thesumsreferredtoinsub-section(1)shallbe 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;”

On a perusal of Sec. 80P(2)(d), it can safely be gathered that interest income derived by an assessee co-operative society from its investments held with any other co-operative society shall be deducted in computing its total income. We may herein observe, that what is relevant for claim of deduction under Sec.80P(2)(d) is that the interest income should have been derived from the investments made by the assessee co-operative society with any other co- operative society. We are in agreement with the view taken by the Pr. CIT, that with the insertion of sub- section (4) to Sec. 80P of the Act, vide the Finance Act, 2006 with effect from 01.04.2007, the provisions ofSec.80Pwouldnomorebeapplicableinrelationto any co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. However, at the same time, we are unable to subscribe to his view that the aforesaid amendment would jeopardize the claim of deduction of a co-operative society under Sec. 80P(2)(d) in respect of its interest income on investments/deposits parked with a co-operative bank. In our considered view, as long as it is proved that the interest income is being derived by a co-operative societyfromits investments made with any other co-operative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d) would be duly available. We find that the term “co-operative society” had been defined under Sec. 2(19) of the Act, as under:-

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

We are of the considered view, that though the co- operative banks pursuant to the insertion of sub- section (4) to Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but as a cooperative 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 in force 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.

9. In so far the judicial pronouncements that have been relied upon by the ld. A.R are concerned, we find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) on the interest income derived from its investments held with a co-operative bank is covered in favour of the assessee in the following cases:

(i). *M/s Solitaire CHS Ltd. vs. Pr. CIT*, ITA No. 3155/Mum/2019; dated 29.11.2019 (ITAT "G" Bench, Mumbai);

(ii). *Majalgaon Sahakari Sakhar Karkhana Ltd. Vs. ACIT*, Circle-3, Aurangabad, ITA No, 308/Pun/2018 (ITAT Pune)

(iii). *Kaliandas Udyog Bhavan Pemises Co-op. Society Ltd. Vs. ITO*, 21(2)(1), Mumbai

We further find that the Hon'ble High Court of Karnataka in the case of *Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society* (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of *State Bank Of India Vs. CIT* (2016) 389 ITR 578 (Guj), had held, that the interest income earned by the assessee on its investments with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act. Still further, we find that the CBDT Circular No. 14, dated 28.12.2006 also makes it clear beyond any scope of doubt that the purpose behind enactment of sub-section (4) of Sec. 80P was that the co-operative banks which were functioning at par with other banks would no more be entitled for claim of deduction under Sec. 80P(4) of the Act. Although, in all fairness, we may herein observe that the Hon'ble High Court of Karnataka in the case of *Pr. CIT Vs. Totagars co-operative Sale Society* (2017) 395 ITR 611 (Karn), as had been relied upon by the ld. D.R before us, had held, that a co-operative society would not be entitled to claim deduction under Sec. 80P(2)(d); but then, the Hon'ble High Court in the case of *Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society* (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of *State Bank Of India Vs. CIT* (2016) 389 ITR 578 (Guj), had observed, that the interest income earned by a co-operative society on its investments held with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act. Backed by the aforesaid conflicting judicial pronouncements, we may herein observe, that as held by the Hon'ble High Court of Bombay in the case of *K. Subramanian and Anr. Vs. Siemens India Ltd. and Anr* (1985) 156 ITR 11 (Bom), where there is a conflict between the decisions of non-jurisdictional High Court's, then a view which is in favour of the assessee is to be preferred as against that taken against him. Accordingly, taking support from the aforesaid judicial pronouncement of the Hon'ble High Court of jurisdiction, we respectfully follow the view taken by the Hon'ble High Court of Karnataka in the case of *Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society* (2017) 392 ITR 74 (Karn) and that of the Hon'ble High Court of Gujarat in the case of *State Bank Of India Vs. CIT* (2016) 389 ITR 578 (Guj), wherein it was observed that the interest income earned by a co-operative society on its investments held with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act.

10. Be that as it may, in our considered view, as the A.O while

*framing the assessment had taken a possible view, and allowed the assessee's claim for deduction under Sec. 80P(2)(d) on the interest income earned on its investments/deposits with co-operative banks, therefore, the Pr. CIT was in error in exercising his revisional jurisdiction u/s 263 of the Act for dislodging the same. Accordingly, finding no justification on the part of the Pr. CIT, who in exercise of his powers under Sec. 263 of the Act, had dislodged the view that was taken by the A.O as regards the eligibility of the assessee towards claim of deduction under Sec. 80P(2)(d), we set-aside his order and restore the order passed by the A.O under Sec. 143(3), dated 07.03.2016."*

5. We adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee's sec.80P deduction claim(s) of Rs.73,85,493/- in very terms. Ordered accordingly.

6. The outcome would not be different regarding the latter head of assessee's interest income from nationalised/other bank(s) in light of *The Vaveru Co-operative Rural Bank Ltd., vs. CCIT [2017] 396 ITR 371 (AP)* that interest income(s) derived from such nationalized/other bank(s) also qualifies for sec.80P deduction and thereby declined it's very stand. Faced with this situation, we adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee's sec.80P(2)(a)(i)/80P(2)(d) deduction claim(s) in very terms and leave it open for the learned Assessing Officer to finalise his consequential computation as per law. Ordered accordingly."

7.2 Also, in the case of *Vivekvardhani Nagari Sahakari Patsanstha Ltd.(supra)*, the Tribunal observed and held as under.

"8. As regards, the issue as to the allowability of exemption under the provisions of section 80P(2)(a)(i) in respect of interest income earned by a cooperative society from the cooperative banks/commercial banks, there is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of *CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd.* 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of *State Bank of India Vs. CIT 389 ITR 578 (Guj.)*, the Hon'ble Delhi High Court in the case of *Mantola Co-operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278*, the Hon'ble Punjab & Haryana High Court in the case of *CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd.* 389 ITR 68 and the Hon'ble Kolkata High Court in the case of *CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd.* 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of *Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann.com 309 (Kar.)* and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of *Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR 371]* took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s 80P(2)(a)(i) of the Act. Similar view has been taken by the Hon'ble Calcutta High Court in the case of *PCIT vs. Gunja Samabay Krishi Unnayan Samity Ltd., 147 taxmann.com 518 (Calcutta)* and the Hon'ble Madras High Court in the case of *Chennai Central Co-operative Bank Ltd. vs. ITO, 148 taxmann.com 17 (Madras)*. The Coordinate Bench of Pune Benches in the case of *M/s. Ratnatray Gramin BigarSheti Sah. Pat Sanstha Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018)* taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of *Tumkur Merchants Souharda Credit Cooperative Ltd. (supra)*. Following the decision of the Coordinate Bench of the Tribunal, we are of the considered opinion that the interest income earned on fixed deposits with cooperative bank/scheduled bank partakes character of the business income, which is

*eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, we direct the Assessing Officer to allow the exemption u/s.80P(2)(a)(i) and section 80P(2)(d) of the Act. Thus, the grounds of appeal filed by the assessee stand allowed.”*

8. Respectfully following the decision(s) (supra) and in the absence of any contrary material brought on record by the revenue to enable us to take a different view, we set aside the impugned order(s) of the Ld. CIT(A). The grounds raised by the assessee in both the appeals are accordingly allowed.

9. In the result, the appeal of the assessee in ITA No. 2070/PUN/2024 for AY 2018-19 and in ITA No. 2071/PUN/2024 for AY 2021-22 are allowed.

**Order pronounced in the open court on 28<sup>th</sup> February, 2025.**

Sd/-  
(R.K. Panda)  
**VICE PRESIDENT**

Sd/-  
(Astha Chandra)  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 28<sup>th</sup> February, 2025.

Ashwini

**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, “ए” बेंच, पुणे / DR, ITAT, “A” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

वरिष्ठनिजीसचिव/ Sr. Private Secretary  
आयकरअपीलीयअधिकरण ,पुणे/ ITAT, Pune