

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.56/Nag./2025**  
(Assessment Year : 2020-21)

Income Tax Officer  
Ward-1(4), Nagpur

..... Appellant

v/s

Rahi Mahila Nagri Sahakari Patsanstha Ltd.  
10, Rahi Estate, Jaitala Road  
Ahilya Nagar, Nagpur 440 036  
PAN – AAAJR1027Q

..... Respondent

Assessee by : Ms. Alfiya Rozie  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 05/03/2025

Date of Order – 21/03/2025

**ORDER**

**PER K.M. ROY, A.M.**

This appeal by the Revenue is emanating from the impugned order dated 26/11/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2020-21.

2. The Revenue has raised following grounds:-

*"1. The order of Ld. CIT(A) is contrary to law and to the facts and circumstances of the case in view of the decision of the Apex court in the case of Totagar's Co-operative Sales Society Ltd. vs. ITO, (2010) 322 ITR 283(SC).*

*2. The Ld. CIT(A) has erred on facts and in law holding that AO was not justified in denying benefit of deduction u/s 80P(2)(a)(i) of the Act whereby erroneously treating income from other sources as business income as the interest is received from the Banks*

3. The Ld.CIT(A) has erred on facts and circumstances of the case, in deletion of addition made on account of interest income earned on the investment with Co-operative Bank of Rs.38,98,350/- as the same is not covered u/s 80P(2)(d) of the I.T. Act, 1961.

4. The Ld.CIT(A) has erred on facts and in law in this case, directing the AO to allow deduction u/s 80P(2)(a)(i) on enhanced income due to disallowance of provisions and expenses, on account of interest expense to the tune of Rs.79,19,028/-, commission expense of Rs.73,04,580/- and provision for doubtful loans of Rs. 18,85,569/-, ignoring the fact that the assessee had not submitted any evidence that these expenditure are related to business activity.

5. The Ld.CIT(A) has erred on facts and in law, relying on CBDT Circular No. 37/2016 dated 02.11.2016, ignoring the fact that expenditure disallowed should be related to business activity for allowing deduction.

6. Any other ground that may be raised during the course of appellate proceedings."

3. The learned CIT(A) has elaborately dealt with the issue in the impugned order which are as under:–

"4.3 In Grounds 1 and 2, the appellant contested disallowance of interest income amounting to Rs. 38,98,350/- only u/s 80P(2)(a)(i) of the I.T. Act, and argued that this income would qualify for deduction. The appellant also asserted that CBDT Circular No. 37/2016 supports its claim for Chapter VI-A deductions on enhanced income post disallowance of certain expenses.

4.4 In Ground No.1 the appellant has challenged the disallowance of interest income u/s 80P(2)(a)(i) of the I.T. Act of Rs.38,98,350/- only. In the case of the appellant interest income can be categorised in two types: income derived from investments in co-operative banks and income derived from investments in commercial banks and a savings bank account.

4.4.1 It has not been disputed by the AO that the appellant is not a registered under Co-operative societies Act of the respective state, as a Credit Co-operative Society. Interest income earned by the appellant, co-operative society as per judicial precedence in this regard is a well settled law that it, should always be charged as income from the head "Other Sources only. In the context of admissibility of interest income u/s 80P, it would be pertinent to mention here that the High Court of Kerala in the case of PCIT vs. Peroorkada Service Co-Operative Bank Ltd. [vide: (2022) 442 ITR 141 (Kerala)], has held that, Interest income from investments with co-operative societies registered under state co-operative Societies Act Including interest income from Co-operative banks, is eligible for deduction under section 80P(2)(d) of the Income Tax Act.

4.4.2 Further, it would also be imperative to refer to the decision of High Court of Karnataka in the case of PCIT- Hubli, vs Totagars Co-operative Sale Society, [vide: [2017] 78 taxmann.com 169 (Karnataka)]. It has been held in the said case by an order dt: 05.01.2017, that interest income of co-operative societies (Credit society) from a Co-operative Bank should be considered as a receipt of interest from a Co-operative Society -for purpose of section 80P(2)(d), where such Co-operative Bank is registered under the Co-operative Societies Act of the respective state respective state.

4.4.3 Besides, there are plethora judgements of Jurisdictional Tribunal (ITAT), where interest income from co-operative banks earned by a registered co-operative society has been allowed as deduction u/s 80P(2)(d) of the I.T.Act.

4.4.4 Having regard to the facts of the case and Respectfully following the orders mentioned above, the Ae is directed to pass an effect order allowing deduction u/s 80P(2)(d) of the I.T.Act, to the extent interest earned by the appellant from Co-operative Banks only (out of Rs.38,98,350/-), if such banks are registered under Co-operative Societies Act of the state concerned, and after verification of quantum of such interest income, earned & accounted for, by the appellant. This deduction should be allowed in addition to deduction u/s 80P(2)(a)(i). No deduction should be allowed on interest income from commercial banks, bonds etc. Ground No.1 is allowed in terms of direction afore-stated.

4.5 Ground No.2 pertains to disallowances made by the AO not in parity with circular No.37/2016 and stand taken by the Board. The contents of CBDT Circular No.37/2016 dt: 02.11.2016 has been considered. It has been categorically stated in para-3 of the said circular, as under:

"3. In view of the above, the Board has accepted the settled position that the disallowance made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Act and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance."

The principle laid down by the Board has been carefully considered, in the context of the present appeal. The AO in the instant case has made disallowances as specified in the body of the order to determine the income from business operations of the appellant. Due to such disallowances made during assessment the total income has become greater than the claim for deduction made by the appellant u/s 80P in its Return of Income for the year. Keeping in mind the facts of the case and the principle enunciated in the noted circular of the CBDT, the AO is directed to allow deduction u/s 80P(2)(a)(i) of the I.T.Act, on enhanced income due to disallowances of provisions and expenses, on account of interest expense to the tune of Rs. 79,19,028/-, commission expense of Rs. 73,04,580/- and provision for doubtful loans of Rs. 18,85,569/- only, made during assessment. Ground No.2 is allowed accordingly.

4. The learned Departmental Representative in all fairness submitted that there is no infirmity in the said order since the same findings support from various binding judicial precedents and circular issued by the CBDT. The learned Authorised Representative has only submitted that the order passed by the learned CIT(A) need not be disturbed. We find that the learned CIT(A) has rightly relied on the judicial precedents and has followed the CBDT Circular in letter and spirit. Hence, there is no scope for interference at our end so as to tinker with the well-reasoned order passed by the learned CIT(A).

5. In the result, appeal by the Revenue stands dismissed.

Order pronounced in the open Court on 21/03/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 21/03/2025**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur