

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

**BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER &
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER**

**ITA No. 323/Mum/2025
(Assessment Year: 2015-16)**

Jay Milind Co-op Housing Society Ltd., Plot No. 454, Jay Milind Chs, 15 th Road, Khar (W) 400 052.	Vs.	ITO, Ward – 22(1)(4) Piramal Chambers, lalbaug, Parel Mumbai – 400012.
PAN/GIR No. AAAAJ4025F		
(Applicant)		(Respondent)

Assessee by	Shri Rajesh Sanghvi
Revenue by	Smt. Usha Gaikwad, Sr. DR

Date of Hearing	04.03.2025
Date of Pronouncement	07.04.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 27.11.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi / CIT(A) Mumbai, for the A.Y 2015-16.

1. In the facts and circumstances of the case and especially in law, the Ld CIT (A) has erred by confirming disallowance of deduction u/s 80P(2)(d) of Rs. 8,42,509/-, being interest income from Co-operative Banks which are also Co-operative Society,

without appreciating the factual and legal submission made and wrongly interpreting the provision the said section and ignoring established judgements/cases.

2. In the facts and circumstances of the case and in law, the Ld CIT (A) has erred in mixing up and mis-interpreting the law and provisions of sec 80P(2)d vis-a-vis 80P(4) of Income Tax act 1961, ignoring the status and nature of the appellant and thereafter denying benefit of Sec. 80P(2)(d) to the appellant

3. In the facts & circumstances of the case and in law, the Ld CIT (A) erred by dwelling into discussion on Section 80P(2)(a)(i) and 80P(4) which are not subject matter of the appeal.

4. In the facts and circumstances of the case and especially in law, the Ld CIT (A) has erred by not considering the Judgments of jurisdictional ITAT, Mumbai Bench orders

5. In the facts & circumstances of the case and in law, the Ld CIT (A) has erred by relying on case laws / citations, which are not applicable to the appellant's case.

2. As per the facts of the case, the assessee is a cooperative housing Society registered under Maharashtra cooperative societies Act, 1960. Since during the year under consideration, the assessee had received interest on deposits with cooperative bank, therefore claimed deduction u/s 80P(2)(d) of the act. But the same was denied by AO, and appeal filed by the assessee was also dismissed by Ld. CIT(A).

3. Aggrieved by the order of Ld. CIT(A), assessee has preferred the present appeal before us on the grounds mentioned herein above.

4. All the grounds raised by the assessee are interrelated and interconnected relates to challenging the order of Ld. CIT(A) in confirming the disallowance of deduction u/s 80P(2)(d) of the Act. Therefore, we have decided to take all the issues together and to adjudicate the same through the present consolidated order.

5. At the outset Ld. AR submitted that the issue in question is squarely covered in favour of assessee by the decision of the Coordinate Bench of ITAT in the case of ***Ashok Tower D Cooperative Housing Society Ltd., Vs. ITO [2024] 163 taxmann.com 598 (Mum).***

6. On the other hand, Ld. DR representing the respondent relied upon the orders passed by the revenue authorities.

7. We have heard the counsels for both the parties, perused the material placed on record, judgements cited before us and also the orders passed by the revenue authorities. Ld. AR submitted that the issues in the present appeal are fully covered by the decision of coordinate bench of ITAT in case of ***Ashok tower "D" Co. Op. Housing Society Ltd. Vs. ITO, reported in [2024] 163 taxmann.com 598 (Mumbai-Trib),*** where in it was

held that assessee co-operative housing society was eligible for deduction u/s 80P(2)(d) in respect of interest income earned by it from a co-operative bank and accordingly, AO was directed to grant deduction to assessee on interest income earned from cooperative banks u/s 80(2)(d). The operative portion of the order of the coordinate bench of ITAT is reproduced herein below:

9. We have heard the rival contentions and perused the orders of the lower authorities. The simple controversy involved in this appeal is that assessee is a co-operative society, has placed certain funds with cooperative banks and earned interest thereon of Rs. 1,472,930/-. The claim of the assessee is that deduction is available under section 80 P (2) (d) of the act to the assessee.

10. According to the provisions of section 80 P in case of a cooperative society the gross total income if it includes the income referred to in subsection (2) then same shall be granted as a deduction subject to the conditions and to the extent of amount specified from the total income. In subsection 2, clause (d) provides that in respect of income by way of interest on dividend derived by the cooperative society from its investment with any other cooperative society the whole of such income is eligible for deduction. Therefore if the cooperative society makes any investment in another cooperative societies and consequently on any the cooper dividend earned from such investment total sum so is eligible for deduction.

11. The controversy involved here is that the argument of the revenue is that when the assessee has made investment in another cooperative society copy then this deduction is allowable. Therefore according to the if amount is not investment trative society, the deduction is not eligible. The reden to the AO if the count is investment in a cooperative

bank which is different from cooperative societies or the says that cooperative societies and therefore the assessee is not entitled to deduction under section 80 P (2) (d) of the Act.

12. Section 2 (19) of the act defines cooperative society means a cooperative society registered under the Cooperative societies act, 1912 or under any other law for the time being in force in any State for the registration of cooperative societies. Thus if the cooperative banks are falling into the definition of cooperative societies', naturally the deduction would be eligible to the assessee under section 80 P (2) (d) of the act. Therefore it needs to be examined that whether the cooperative banks are operative societies under section 2 subsection (19) of the act are not.

13. Section 2 (10) of the Maharashtra cooperative societies act defines "Co-operative bank" means a Co- operative society which is doing the business of banking as defined in clause (b) of sub-sections (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as an Agricultural and Rural Development Bank under Chapter XI; Therefore according to the above definition, the cooperative banks are also cooperative society

14. Thus, though the assessee has referred to several judicial precedents, even after considering those precedents, which also holds the same view, we do not have any hesitation to hold that the amount of investment made by the assessee with cooperative banks in Maharashtra are also investment made in cooperative society.

15. Thus, on plain reading of the sections of the income tax act it is clear that if assessee has made an investment in fixed deposit receipts or in savings bank account, interest earned thereon is eligible for deduction under section 80 P (2) (d) of the act. The words of the statute are plain and clear and there is no room for applying any of the principles of interpretation. We are supposed to interpret them as they stand. It is not the claim of the revenue that assessee is not a cooperative society.

16. In the result, the orders of the lower authorities are reversed and the learned AO is directed to grant deduction to the assessee on interest income earned from cooperative banks u/s 80 P (2) (d) of The Act.

17. In the result, Appeal of the assessee is allowed.

8. Since the facts of the present case are similar to the facts of the above mentioned case, and assessee has also derived income from deposits with Co-operative banks and claimed deduction u/s 80(P)(2) of Income-tax Act. Therefore, in view of the discussion made above and respectfully, following the decision in the case of **Ashok tower "D" Co. Op. Housing Society Ltd.** (supra) cited above, we decide these grounds in favour of assessee and accordingly direct AO to grant deduction on interest income earned from Co-operative banks u/s 80(P)(2) of the Act hence the grounds raised by the assessee are allowed.

9. In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 07.04.2025.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 07/04/2025

KRK, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai