

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "SMC" Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM)  
& Shri Omkareshwar Chidara (AM)

ITA No. 6593/MUM/2024 (Assessment Year : 2017-18)

The Vasai Machhimar Sarvodaya Sahakari Sanstha Maryadit 1, Panchubander Taluka-Vasai Dist. Palghar, Maharashtra 401 201.	Vs.	ITO Ward 4(4) Ashar IT Park 6 <sup>th</sup> Floor, Road No. 16Z, Wagle Indl. Estate, Thane Maharashtra 400 604.
PAN : AAATT1473A		
Appellant		Respondent

Assessee by	:	Shri Mayur J. Gosrani, CA
Revenue by	:	Shri Manoj Kumar Sinha
Date of Hearing	:	07/04/2025
Date of pronouncement	:	17/04/2025

ORDER

Per Omkareshwar Chidara (AM) :-

In this appeal the appellant has claimed that the bank interest received from the Cooperative Banks on surplus funds as exempt under section 80P(2)(d) of the I.T. Act.

2. The Ld. AO and Ld. CIT(A) did not agree with the contentions of the appellant and deduction under section 80P(2)(d) of the Act was denied.

3. Aggrieved by the orders of the lower authorities, the appellant has escalated the issue to the ITAT.

4. During the hearing proceedings before the ITAT, Ld. AR of the appellant has stated that the income received by the appellant from the Cooperative Banks is eligible for deduction under section 80P(2)(d) of the Act. It was argued that the interest on surplus funds deposited with the banks bears character of "income from other sources" and not "business income"

and hence they are eligible for deduction under section 80P(2)(d) of the Act. Ld. AR of the appellant further relied on the following decisions including decision of Hon'ble Supreme Court decision :

- Maviyali Service Cooperative Bank Ltd. & Ors. Vs. CIT (Civil Appeal No. 7343-7350 of 2019)
- Pathare Prabhu Cooperative Housing Society Ltd. Vs. ITO (ITA No. 1346 and 1347 of 2023)
- Jaipur Zila Dugdh Utpadak Sahakari Sangh Ltd. Vs. DCIT (ITA No. 512 & 513/JP/2019)(ITAT Jaipur)

5. Ld. AR of the appellant has filed a paper book containing various arguments to demonstrate that the appellant society is entitled for deduction under section 80P(2)(d) of the Act and reliance placed by the Ld. AO on the judicial pronouncement of Hon'ble Supreme Court in the case of Totgars Sales Society Ltd Vs. ITO (SLP No. 7572 of 2009) is not applicable to the facts of the case. Ld. AR of the appellant has filed a paper book, as mentioned above in which reliance was placed on seven decisions of the Coordinate Benches of ITAT and Hon'ble High Courts and pleaded finally that the decision of Ld. CIT(A) may be reversed and order may be passed giving deduction to the appellant society.

6. Ld. DR relied on the assessment order and Ld. CIT(A) order.

7. After hearing submissions of both the parties and perusal of the detail paper book containing written submissions as well as various cases-law relied upon by the appellant, it is decided that the appellant is entitled for deduction under section 80P(2)(d) of the Act. Reliance is placed on the following decisions of Coordinate Benches and Hon'ble Supreme Court for the proposition that the appellant is entitled for deduction under section 80P(2)(d) of the Act :-

- Maviyali Service Cooperative Bank Ltd. & Ors. Vs. CIT (Civil Appeal No. 7343-7350 of 2019)
- Pathare Prabhu Cooperative Housing Society Ltd. Vs. ITO (ITA No. 1346 and 1347 of 2023)

- Jaipur Zila Dugdh Utpadak Sahakari Sangh Ltd. Vs. DCIT  
(ITA No. 512 & 513/JP/2019)(ITAT Jaipur)

8. As Hon'ble Supreme Court finally decided the issue of deduction in the case of Maviyali Service Cooperative Bank Ltd. (supra) in favour of the appellant, respectfully following the decision of Hon'ble Apex and other decisions of Coordinate Benches as mentioned above, it is held that the appellant is eligible for deduction under section 80P(2)(d) of the Act.

9. The appellant of appellant is allowed.

Order pronounced in the open Court on 17/04/2025.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER

Mumbai; Dated: 17/04/2025

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

PS

BY ORDER,  
(Assistant Registrar)  
ITAT, Mumbai