

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, V.P. AND
SHRI BIJAYANANDA, PRUSETH, AM

ITA No. 2090 & 2091/Mum/2025)
(Assessment Years: 2018-19 & 2020-21)

Om Gorai, Nagri Sahakari Patsantha Maryadit, Plot No.264/279, Shreeji Bungalow, Near Ganpati Mandir, Gorai (1), Borivali (W), Mumbai.-400091	Vs.	Income Tax Officer, Ward 42(1)(3), Mumbai.
PAN/GIR No. AAAAO 1697E		
(Applicant)	:	(Respondent)

Applicant by	:	Shri Anil Sathe
Respondent by	:	Shri Rajendra Joshi (Sr. DR)

Date of Hearing	:	13.05.2025
Date of Pronouncement	:	23.05.2025

ORDER

Per Saktijit Dey, VP:

Captioned appeals by the assessee arise out of two separate orders, both dated 06.01.2025, passed by National Faceless Appeal Centre (NFAC), Delhi pertaining to Assessment Years (AYs) 2018-19 and 2020-21.

2. The common dispute in both the appeals relate to disallowance of deduction claimed u/s. 80P(2)(d) r.w.s. 80P(4) of the Income Tax Act, 1961 (hereinafter called the ‘Act’) in respect of interest earned from Cooperative Banks.

3. Briefly the facts are, the assessee is a Cooperative credit society registered under Maharashtra Cooperative Societies Act, 1960/ In the return of income filed

for the A.Y. 2018-19, the assessee had claimed deduction of an amount of Rs.1,35,04,101/-, being interest and dividend earned from various Cooperative Banks. While completing the assessment, the AO declined to allow deduction on the ground that interest earned from Cooperative Banks is not allowable. The aforesaid decision of the AO was sustained by learned First Appellate Authority. In so far as A.Y. 2020-21 is concerned, though, the assessee did not claim identical deduction before AO, however, he claimed it before learned First Appellate Authority. The deduction so claimed was denied by learned First Appellate Authority on identical reasoning.

4. Before us, learned counsel appearing for the assessee submitted that the restriction imposed u/s. 80P(4) of the Act r.w.s. 80P(2)(d) is only with regard to allowability of deduction in case of cooperative Banks. He submitted, such restriction does not apply to a cooperative society. In support of such contention he relied upon the following decisions:

- i) Mavilayi Service Cooperative Bank Ltd. vs. CIT, Calicut [2021] 123 Taxmann.com 161 (SC)
- ii) PCIT vs. Ashwinkumar Arban Cooperative Society Ltd. [2024] 168 taxmann.com 314 (Guj. HC).
- iii) PCIT vs. Shree Aradhana Urban Cooperative Credit Society Ltd. [2025] 172 taxmann.com 537 (Guj. HC).

- iv) Commissioner of Income Tax vs. Kangra Cooperative Bank Ltd. [2009] 183 taxman 72 (Himachal Pradesh High Court).
- v.) Kaliandas Udyog Bhavan Premises Cooperative Society Ltd. vs. ITO, Mumbai ITA No. 6547/Mum/2017.
- vi) Ashok Tower “D” Cooperative Housing Society Ltd. vs. ITO, [2024] 163 taxmann.com 598 (Mum-Trib).

5. Per contra, learned DR strongly relied upon the observations of the AO and learned First Appellate Authority.

6. We have considered rival submissions in the light of the decisions relied upon and perused the materials on record. The short issue arising for consideration is whether deduction u/s. 80P(2)(d) r.w.s. 80P(4) of the Act can be allowed in respect of interest/dividend earned by a Cooperative Society through investment made in Cooperative Bank.

7. On perusal of judicial precedents cited before us by learned counsel for the assessee, we find unanimity in the view expressed by various High Courts and different benches of the Tribunal, while holding that interest earned from investment made in a cooperative Bank would qualify as deduction u/s. 80P(2)(d) of the Act. The following observations of Hon’ble Gujarat High Court in case of PCIT vs. Urban Cooperative Societies Ltd. (Supra) would suffice.

“33. In view of the above dictum of law as well as the provisions of the Act which are considered we are of the opinion that the provisions of

section 80P(2)(d) would be applicable in the facts of the case and the PCIT was not justified in invoking revisional powers under section 263 of the Act which is rightly reversed by the Tribunal holding that the cooperative bank is a cooperative society registered under the Gujarat State Cooperative Societies Act and in view of the various decisions of the Court, the Tribunal after following the same has come to the conclusion that the assessment was not erroneous allowing deduction of section 80P(2)(d) of the Act which is in consonance with the various decisions of the Court as a twin condition invoking section 263 as to the assessment being erroneous and prejudicial to the interest of the revenue are not being fulfilled.”

8. Even the Hon’ble Himachal Pradesh High Court in case of CIT vs. Kangra Cooperative Bank Ltd. has expressed identical view as under:-

“10. Faced with this situation, Ms. Vandana Kuthiala raised a plea that there is nothing on record to show that the Registrar has given approval for deposit of this amount in the H.P. State Co-operative Bank. To say the least, this is an argument of desperation. This stand was not raised at any stage before the Income Tax Authorities. Such a plea cannot be permitted to be raised at this stage. Even otherwise, there is sufficient material on record to show that the Registrar has been approving the balance sheets of the assessee bank which itself will imply the approval of the Registrar. Furthermore, the investments have been made in H.P. State Co-operative Bank which is also a Co-operative Society and therefore even u/s 80-P(2)(d) of the Act, interest income from investments made in any Co-operative Society would also be entitled for deduction.”

9. Thus, respectfully following the ratio laid down in the judicial precedents (supra), we hold that the assessee is entitled to claim deduction u/s. 80P(2)(d) of the Act in respect of interest/dividend received from Cooperative Banks. The AO is directed to allow assessee’s claim.

10. In the result, appeals are allowed.

(Order pronounced in the open court on 23.05.2025)

Sd/-
(BIJAYANANDA, PRUSETH)
Accountant Member

Sd/-
(SAKTIJIT DEY)
Vice President

Mumbai: Dated : 23.05.2025

Aks/-

Copy of the Order forwarded to :

1. The Applicant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai