

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री विजय पाल राव, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपील सं./I.T.A.No.370/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2017-18)**

ACIT – CIRCLE – 1(1) Income Tax Office Central Revenue Building Mahathma Gandhi Road Vijayawada – 520002 Andhra Pradesh	v.	The Krishna District Milk Producers Mutually Aided Co-op Union Limited Milk Products Factory Chittinagar, Vijayawada – 520009 Andhra Pradesh [PAN:AAAAT2578D]
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

सी.ओ सं. / C.O. No. 15/VIZ/2024

**[आयकर अपील सं. से उत्पन्न./ ARISING OUT OF I.T.A.No.370/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2017-18)]**

The Krishna District Milk Producers Mutually Aided Co-op Union Limited Milk Products Factory Chittinagar, Vijayawada – 520009 Andhra Pradesh [PAN:AAAAT2578D]	v.	ACIT – CIRCLE – 1(1) Income Tax Office Central Revenue Building Mahathma Gandhi Road Vijayawada – 520002 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	06.05.2025
घोषणा की तारीख/Date of Pronouncement	:	09.06.2025

आदेश / O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal filed by the Revenue is directed against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1067034028(1) dated 25.07.2024 for the A.Y.2017-18 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short ‘Act’) dated 30.12.2019. Cross objection is filed by the assessee in support of the order of the Ld. CIT(A).

2. Briefly stated facts of the case are, assessee is an AOP engaged in the business of procurement of milk, processing and sale of milk and milk products, filed its original return of income on 01.11.2017 admitting a total income of Rs.12,05,45,080/- for the A.Y. 2017-18. The case was selected for scrutiny and thereafter notices under section 143(2) and 142(1) of the Act were issued from time to time calling for information regarding large value of cash deposited during the demonetization period, bank statements, books of accounts and statement of total income. After examining the assessee submissions, Ld.Assessing Officer [hereinafter in short “Ld. AO”] issued a show-cause notice on 24.12.2019 regarding the cash deposits made into the various bank accounts of the assessee. In response, assessee submitted reply on 27.12.2019 and 28.12.2019 wherein it was stated that the assessee has made cash deposits of

Rs.71,45,26,559/- during the demonetization period which includes Specified Bank Notes (SBNs) amounting to Rs. 10,33,86,216/-. The assessee also submitted before the Ld. AO that SBNs shall not be ceased to be a legal tender at the milk booths operating under authorization of the Central or State Governments. Ld. AO did not accept the contentions of the assessee and considered the cash deposits in SBNs amounting to Rs.10,33,86,216/- as unexplained cash credit after allowing the opening balance amount of Rs.57,77,555/- as on 08.11.2016 added the balance of Rs.9,76,08,661/- to the total income of the assessee. Further, Ld. AO also observed that out of the cash deposit of Rs.71,45,26,559/- the cash deposited in bank arising out of cash sales during the demonetization period is Rs.45,58,23,000/- only and after considering the reply to the show-cause notice dated 24.12.2019 Ld. AO treated the difference amount of Rs. 25,83,89,678/- as unexplained cash credit under section 68 of the Act. Further, Ld. AO also observed that assessee has claimed deduction under section 80P(2)(d) of the Act in respect of interest income derived from the investments made in the Fixed Deposits with KDCC Bank Limited. Ld. AO by relying on the decision in the case of Pr.CIT v. Totgars Co-operative Society (322 ITR 283) disallowed the deduction claimed by the assessee and added it to the total income of the assessee. Further, Ld. AO also observed that the assessee has purchased Skimmed Milk Powder for Rs. 40.85 Crores. It was also observed that the assessee has purchased Skimmed Milk Powder from Gujarat Co-operative Milk Marketing Federation

Limited (in short “GCMMFL”) amounting to Rs. 26,58,52,800/-. Ld. AO issued notice under section 133(6) of the Act to GCMMFL, and after considering the account statement by GCMMFL observed that the assessee has made payments to the tune of Rs. 26,96,26,800/- towards purchases and hence treated the difference of Rs. 37,74,000/- as unexplained expenditure under section 69C of the Act.

3. On being aggrieved by the additions made by the Ld. AO, assessee filed appeal before Ld. CIT(A). Assessee reiterated its submissions made before Ld.AO, and the Ld. CIT(A) accepted the submissions made by the assessee and thus allowed the appeal of the assessee.

4. On being aggrieved by the order of the Ld. CIT(A), Revenue is in appeal before us by raising following grounds of appeal: -

“1. The order of the Ld.CIT(A) is erroneous on facts and in circumstances of the case as narrated in the statement of facts.

2. The Ld. CIT(A) erred in deleting the addition of Rs.25,83,89,678/- basing on the contention of the assessee that the said amount constitutes the realization of credit sales, when the realization of credit sales ought to be in form of account transfer through banking channel but not in form of cash.

3. The Ld. CIT(A) erred in deleting the addition Rs.37,74,000/- by relying on a statement stated to be bank account statement, in which the reconciliation entry is made. However such entries are not reflecting in the ledger account of the GCMMFL in the books of assessee.

4. The Ld. CIT(A) erred in deleting the addition of Rs. 1,44,02,6471- regarding disallowance of deduction u/s.80P(2)(d) of the Act, without considering the Supreme Court decision in the case of M/s. Totgars

Cooperative Sale Society Limited (322 ITR 283), wherein it was held that the interest income earned on investment of surplus funds which are not immediately required for business purposes, is taxable under the head 'Income from Other Sources'.

5. *Any other ground that may be urged at the time of appeal hearing.”*

5. Ground Nos. 1 & 5 are general in nature and needs no specific adjudication.

6. With regard to Ground No. 2, the Revenue has agitated against the deletion of addition of Rs. 25,83,89,678/- by the Ld. CIT(A). On this issue Ld.Departmental Representative [hereinafter in short “Ld. DR”] submitted that Ld. CIT(A) erred in deleting the additions made by the Ld. AO by relying on the statement showing month wise cash sales, other receipts, cash deposits made into the bank account furnished by the assessee. Ld. DR further submitted that Ld.CIT(A) erred in considering the receipt on sale proceeds from agent in cash which was directly deposited into the bank account of the assessee and as per the assessee statement these amounts are also included in the total cash deposits of Rs.45,58,23,000/-. He therefore pleaded that addition made by the Ld. AO be sustained.

7. Per contra, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Ld. AO has not disputed the total sales both cash and credit. Further he referred to Page Nos. 33 to 37 of the paper-book wherein the summary of cash deposits have been furnished before the Ld. AO and

Ld.CIT(A). Ld.AR further submitted that it is clear from the summary of cash deposits during the demonetization period both the SBNs and Non-SBNs into the various bank accounts of the assessee wherein the direct deposit by the third parties against credit sales was not considered by the Ld. AO. He therefore pleaded that the assessee makes cash deposits from the cash sales from its own retail outlets and also cash is deposited into the assessee bank account directly by the agents with respect to the sales made through agents. Ld. AO has not considered the realization out of the credit sale made by the agents which was directly deposited into the bank accounts of the assessee. He therefore pleaded that the order of the Ld. CIT(A) be upheld.

8. We have heard both the sides and perused the material available on record. It is an undisputed fact that the nature of business of the assessee is being carried on through its direct retail outlets and through agents. It is also undisputed by the Ld. AO that the assessee has made total turnover of Rs.593,17,27,655/- during the impugned assessment year. Further, as submitted by the Ld.AR, Ministry of Finance vide Notification dated 08.11.2016 has permitted acceptance of SBNs for purchase at milk booths operating under authorisation of the Central of State Governments. The assessee is Registered under the Registrar of Mutually Aided Co-operative Societies, Andhra Pradesh and hence it is not prohibited from receiving SBNs during the demonetization period for the purchase and sale of milk and milk products. Further, as

submitted by the Ld.AR in Page No. 36 of the paper book wherein the date wise cash deposited by assessee as well as the direct cash deposited by the third parties into the bank account during the demonetization period clearly states that the difference of Rs. 25,83,89,678/- represents the direct cash deposits by agents into the bank account of the assessee. The revenue has not disputed the statement, and hence in these circumstances we are of the considered view that assessee has properly explained the cash deposits arising out the receipts from the credit sales which was directly deposited by the agents into the assessee's bank account has been properly demonstrated and duly explained and therefore we find no reason to interfere in the order of Ld.CIT on this issue. Accordingly, this ground raised by the Revenue is dismissed.

9. Ground No. 3 relates to deletion of Rs.37,74,000/- alleging that the entries are not reflected in the ledger account of GCMMFL in the books of the assessee. On this issue, Ld. DR submitted that in response to notice under section 133(6) of the Act, GCMMFL has furnished the account statement reflecting the purchases made by the assessee. According to this statement the assessee has made payment of Rs.26,96,26,800/- to GCMMFL during the impugned assessment year. Ld. AO has observed that the assessee has made purchases of Rs. 26,58,52,800/- only and made payment of Rs.26,96,26,800/-. Further he also argued that difference between the purchases and payments made by the assessee to GCMMFL has been rightly considered as unexplained

expenditure by the Ld.AO. Ld. DR pleaded that the orders of the Ld. AO be upheld.

10. Per contra, Ld.AR submitted that according to the ledger account submitted by the GCMMFL and demonstrated that GCMMFL has made the purchase entry dated 30.05.2016 vide Bill No. 166583798 at Rs. 37,74,000/- and immediately reversed that entry vide Bill No. 167541142. This entry which was wrongly made in the books of GCMMFL was not captured in the assessee's books as it does not pertain to the assessee. He further pleaded that the Ld. AO has selectively considered the purchases but has not considered the reversal entry passed by the GCMMFL. He therefore pleaded that the order of the Ld.CIT(A) be upheld.

11. We have heard both the sides and perused the material available on record including the account statements of GCMMFL and the ledger account of the assessee. It is found that on perusal of the account statement of GCMMFL has passed an entry for sale of Skimmed Milk Powder on 30.05.2016 vide documentNo. 166583798 of Rs.37,74,000/- and has immediately reversed the same entry again on 30.05.2016 vide document No. 167541142. Ld. AO while considering the statement has taken the gross figure of Rs. 26,96,26,800/- without netting off of the reversal entry. Further, GCMMFL has also confirmed the receipt from the assessee for Rs. 26,58,52,800/- after netting off of the

reversal of sale of Rs.37,74,000/-. The copy of the statement submitted by the GCOMMFL is reproduced below: -

Cleared /open items symbol	Doc. Dt	Posting	Bill No.	Debit Amount	Credit Amount	Do c. Ty pe	Profit Center	Text	Reference	Busin ess Place	Doc. No.
	11-05-16	11-05-16		0.00	-18,870,000.00	DZ	G00-801000			G000	1400118051
	27-05-16	27-05-16		0.00	-18,870,000.00	DZ	G00-801000			G000	1400169636
	03-06-16	03-06-16		0.00	-18,870,000.00	DZ	G00-801000			G000	1400190200
	26-08-16	26-08-16		0.00	-17,686,800.00	DZ	G00-801000			G000	1400438250
	01-09-16	02-09-16		0.00	-306,000.00	DZ	G00-801000			G000	1400458792
	16-11-16	17-11-16		0.00	-20,400,000.00	DZ	G00-801000			G000	1400679657
	19-11-16	19-11-16		0.00	-20,400,000.00	DZ	G00-801000			G000	1400687200
	23-11-16	23-11-16		0.00	-20,400,000.00	DZ	G00-801000			G000	1400697793
	01-12-16	01-12-16		0.00	-62,730,000.00	DZ	G00-801000			G000	1400721111
	14-12-16	15-12-16		0.00	-22,440,000.00	DZ	G00-801000			G000	1400759696
	17-12-16	17-12-16		0.00	-22,440,000.00	DZ	G00-801000			G000	1400768050
	19-12-16	19-12-16		0.00	-22,440,000.00	DZ	G00-801000			G000	1400771840
				0.00	-265,852,800.00	DZ					
	17-05-16	17-05-16	166583046	3,019,200.00	0.00	RV	G00-801000		0166583046	M000	90290559
	19-05-16	19-05-16	166583154	3,962,700.00	0.00	RV	G00-801000		0166583154	M000	90303980
	20-05-16	20-05-16	166583215	3,962,700.00	0.00	RV	G00-801000		0166583215	M000	90311391
	21-05-16	21-05-16	166583267	3,962,700.00	0.00	RV	G00-801000		0166583267	M000	90317712
	24-05-16	24-05-16	166583463	3,962,700.00	0.00	RV	G00-801000		0166583463	M000	90336014
	30-05-16	30-05-16	166583798	3,774,000.00	0.00	RV	G00-801000		0166583798	M000	90373439
	30-05-16	30-05-16	167541142	0.00	3,774,000.00	RV	G00-801000		0166583798	M000	90373646
	30-05-16	30-05-16	166583802	3,774,000.00	0.00	RV	G00-801000		0166583802	M000	90373736
	31-05-16	31-05-16	166583815	3,774,000.00	0.00	RV	G00-801000		0166583815	M000	90378809
	31-05-16	31-05-16	166583816	3,774,000.00	0.00	RV	G00-801000		0166583816	M000	90378847
	31-05-16	31-05-16	166583818	3,774,000.00	0.00	RV	G00-801000		0166583818	M000	90378872
	31-05-16	31-05-16	166583830	3,774,000.00	0.00	RV	G00-801000		0166583830	M000	90380697
	06-06-16	06-06-16	166584036	3,774,000.00	0.00	RV	G00-801000		0166584036	M000	90415883
	06-06-16	06-06-16	166584037	3,774,000.00	0.00	RV	G00-801000		0166584037	M000	90415902
	06-06-16	06-06-16	166584038	3,774,000.00	0.00	RV	G00-801000		0166584038	M000	90415927
	07-06-16	07-06-16	166584121	3,774,000.00	0.00	RV	G00-801000		0166584121	M000	90423353
	07-06-16	07-06-16	166584122	3,774,000.00	0.00	RV	G00-801000		0166584122	M000	90423367
	27-08-16	27-08-16	166587879	3,641,400.00	0.00	RV	G00-801000		0166587879	G100	90910134
	27-08-16	27-08-16	166587883	3,641,400.00	0.00	RV	G00-801000		0166587883	G100	90910168
	01-09-16	01-09-16	166588172	3,570,000.00	0.00	RV	G00-801000		0166588172	M000	90943692
	01-09-16	01-09-16	166588173	3,570,000.00	0.00	RV	G00-801000		0166588173	M000	90943703
	03-09-16	03-09-16	166588284	3,570,000.00	0.00	RV	G00-801000		0166588284	M000	90954397
	18-11-16	18-11-16	166592639	4,080,000.00	0.00	RV	G00-801000		0166592639	M000	91414957
	18-11-16	18-11-16	166592640	4,080,000.00	0.00	RV	G00-801000		0166592640	M000	91414984
	18-11-16	18-11-16	166592645	4,080,000.00	0.00	RV	G00-801000		0166592645	M000	91415325
	18-11-16	18-11-16	166592662	4,080,000.00	0.00	RV	G00-801000		0166592662	M000	91415812
	19-11-16	19-11-16	166592691	4,080,000.00	0.00	RV	G00-801000		0166592691	M000	91420488
	22-11-16	22-11-16	166592864	4,080,000.00	0.00	RV	G00-801000		0166592864	M000	91437778
	22-11-16	22-11-16	166592911	4,080,000.00	0.00	RV	G00-801000		0166592911	M000	91439306
	23-11-16	23-11-16	166592937	4,080,000.00	0.00	RV	G00-801000		0166592937	M000	91444390
	23-11-16	23-11-16	166592918	4,080,000.00	0.00	RV	G00-801000		0166592918	M000	91443761
	23-11-16	23-11-16	166592919	4,080,000.00	0.00	RV	G00-801000		0166592919	M000	91443884
	25-11-16	25-11-16	166593065	4,080,000.00	0.00	RV	G00-801000		0166593065	M000	91457219
	25-11-16	25-11-16	166593066	4,080,000.00	0.00	RV	G00-801000		0166593066	M000	91457249
	25-11-16	25-11-16	166593067	4,080,000.00	0.00	RV	G00-801000		0166593067	M000	91457283
	25-11-16	25-11-16	166593074	4,080,000.00	0.00	RV	G00-801000		0166593074	M000	91457721
	26-11-16	26-11-16	166593129	4,080,000.00	0.00	RV	G00-801000		0166593129	M000	91463193
	02-12-16	02-12-16	166593506	4,182,000.00	0.00	RV	G00-801000		0166593506	M000	91500760
	02-12-16	02-12-16	166593507	4,182,000.00	0.00	RV	G00-801000		0166593507	M000	91500763
	02-12-16	02-12-16	166593511	4,182,000.00	0.00	RV	G00-801000		0166593511	M000	91501000
	02-12-16	02-12-16	166593512	4,182,000.00	0.00	RV	G00-801000		0166593512	M000	91501000

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02-12-16	02-12-16	166593534	4,182,000.00	0.00	RV	G00-801000	0166593534	M000	91501859
05-12-16	05-12-16	166593653	4,182,000.00	0.00	RV	G00-801000	0166593653	M000	91517938
06-12-16	06-12-16	166593659	4,182,000.00	0.00	RV	G00-801000	0166593659	M000	91522193
06-12-16	06-12-16	166593661	4,182,000.00	0.00	RV	G00-801000	0166593661	M000	91522339
06-12-16	06-12-16	166593666	4,182,000.00	0.00	RV	G00-801000	0166593666	M000	91522601
06-12-16	06-12-16	166593669	4,182,000.00	0.00	RV	G00-801000	0166593669	M000	91522809
06-12-16	06-12-16	166593685	4,182,000.00	0.00	RV	G00-801000	0166593685	M000	91523479
07-12-16	07-12-16	166593712	4,182,000.00	0.00	RV	G00-801000	0166593712	M000	91528811
07-12-16	07-12-16	166593713	4,182,000.00	0.00	RV	G00-801000	0166593713	M000	91528836
07-12-16	07-12-16	166593717	4,182,000.00	0.00	RV	G00-801000	0166593717	M000	91529220
07-12-16	07-12-16	166593738	4,182,000.00	0.00	RV	G00-801000	0166593738	M000	91530110
17-12-16	17-12-16	166594185	4,488,000.00	0.00	RV	G00-801000	0166594185	M000	91589507
17-12-16	17-12-16	166594186	4,488,000.00	0.00	RV	G00-801000	0166594186	M000	91589519
17-12-16	17-12-16	166594188	4,488,000.00	0.00	RV	G00-801000	0166594188	M000	91589660
17-12-16	17-12-16	166594207	4,488,000.00	0.00	RV	G00-801000	0166594207	M000	91590962
17-12-16	17-12-16	166594213	4,488,000.00	0.00	RV	G00-801000	0166594213	M000	91591240
20-12-16	20-12-16	166594289	4,488,000.00	0.00	RV	G00-801000	0166594289	M000	91606832
20-12-16	20-12-16	166594294	4,488,000.00	0.00	RV	G00-801000	0166594294	M000	91607457
20-12-16	20-12-16	166594308	4,488,000.00	0.00	RV	G00-801000	0166594308	M000	91608614
21-12-16	21-12-16	166594321	4,488,000.00	0.00	RV	G00-801000	0166594321	M000	91613109
21-12-16	21-12-16	166594343	4,488,000.00	0.00	RV	G00-801000	0166594343	M000	91614814
21-12-16	21-12-16	166594344	4,488,000.00	0.00	RV	G00-801000	0166594344	M000	91614821
22-12-16	22-12-16	166594355	4,488,000.00	0.00	RV	G00-801000	0166594355	M000	91619472
23-12-16	23-12-16	166594396	4,488,000.00	0.00	RV	G00-801000	0166594396	M000	91625996
24-12-16	24-12-16	166594435	4,488,000.00	0.00	RV	G00-801000	0166594435	M000	91632606
24-12-16	24-12-16	166594449	4,488,000.00	0.00	RV	G00-801000	0166594449	M000	91633543
			269,626,800.00	-3,774,000.00	RV				
			269,626,800.00	-269,626,800.00					

Doc. Type

DZ Customer Payment

RV Sale Invoice on Customer

Note In one instance RV shown Negative (-) which indicated Reversal of Sale

1) We have received payment of Rs. 265852800.00 from the Krishna DMPA Co op Union Ltd

2) During the F.Y. 2016-2017 total Sale to Krishna DMPA Co op Union Ltd is Rs. 265852800.00 (Total Sale Rs 269626800 -

Rev. of Sale Rs. 3774000)

12. Accordingly, we find no merit in the ground raised by the revenue, therefore, we find no infirmity in the order of the Ld. CIT(A) on this issue.

Thus, Ground No. 3 raised by the revenue is dismissed.

13. With respect to Ground No. 4 on the deletion of Rs. 1,44,02,647/- by disallowing the deduction claimed by the assessee under section 80P(2)(d) of the Act. On this issue, Ld. DR submitted that Ld. AO by relying on the decision of the Hon'ble Karnataka High Court in the case of Pr.CIT v. Totgars Co-operative Society (supra) has rightly held that assessee is not entitled for

deduction under section 80P(2)(d) of the Act with respect to interest income derived from investments made on Fixed Deposits with KDCC Bank Limited.

He therefore pleaded that the order of the Ld. AO be upheld.

14. Per contra, Ld.AR argued that in assessee's own case for the earlier assessment year the interest received from the cooperative bank which is being a cooperative society engaged in banking activities shall be allowed as deduction under section 80P(2)(d) of the Act. He further submitted that disallowance was deleted by the Hon'ble ITAT in the assessee's own case for the A.Y. 2013-14. Further he also submitted that Co-ordinate Bench of this Tribunal in various cases have held that the interest received from the cooperative bank being cooperative society is entitled for deduction under section 80P(2)(d) of the Act. He therefore pleaded that order of the Ld. CIT(A) be upheld.

15. We have heard both the sides and perused the material available on record including the case laws cited by the assessee in the case law paper book. Further, the Coordinate Bench of the Tribunal in the case of ITO v. The Yendagandhi Large Size Cooperative Society Limited in ITA No. 354/VIZ/2024 vide order dated 13.12.2024 held as follows: -

"8. We have heard both the sides and perused the material available on record. We find that identical issue has been considered by the Co-ordinate Bench of the Tribunal in the case of Bheemunipatnam Mutually Aided Cooperative Building Society Limited v. ACIT in ITA Nos. 175, 176

& 177/VIZ/2024 dated 25.11.2024 and decided the issue in favour of the assessee, by observing as under: -

“9. We have heard both the sides and perused the material available on record including the cases cited by both the parties. The main grievance of the assessee is with respect to denial of deduction under section 80P(2)(d) of the Act in respect of interest income received from cooperative banks. The provisions of section 80P(1) of the Act allows deduction under section 80P(2) of the Act to an assessee being a cooperative society. Section 80P(2)(d) of the Act is reproduced below for ready reference: -

"80P. Deduction in respect of income of co-operative societies.

(1)

(2) The sums referred to in sub-section (1) shall be the following, namely:-

(a)

(b)

(c)

(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;”

10. From the bare reading of the provisions of section 80P(2)(d) of the Act, assessee should satisfy two conditions namely (i) income by way of interest or dividend is earned by the cooperative society from the investments; and (ii) such investments should be with any other cooperative society. The term “cooperative society” is defined under section 2(19) of the Act as under:-

"(19) "co-operative society" means 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;”

11. In the instant case, it is not disputed that assessee is a cooperative society and therefore any income referred in sub-section (2) of Section 80P of the Act which is included in the gross total income of the assessee, shall be allowed as deduction. The revenue denied the

deduction under section 80P(2)(d) of the Act stating that interest income is earned from the cooperative bank whereas in the said provision only grants deduction in respect of interest earned from cooperative society. The Hon'ble High Court of Madras in the case of Thorapadi Urban Co-op Credit Society Limited v. ITO (supra) held as follows: -

“10. A reading of the above definition would make it clear that 'Co-operative Society' means a Co-operative Society registered under Co-operative Societies Act, 1912. Thus, a Co-operative Society referred therein is only a co-operative society as defined under the Act, be it a Co-operative Society carrying on banking business or Co-operative Society carrying on the other businesses or a Co-operative bank.”

12. The Hon'ble High Court of Madras in the case of CIT v. The Salem Agricultural Producers Co-Operative Marketing Society Ltd (supra) also affirmed the view that interest income earned from cooperative bank by cooperative society is also eligible for deduction under section 80P(2)(d) of the Act. Further various Co-ordinate Benches of the Tribunal had consistently taken a view and held that interest income earned from cooperative bank were allowable as deduction under section 80P(2)(d) of the Act. Further, we are also of the considered view that provisions of section 80P(4) excludes only cooperative banks possessing licence from RBI to do banking business to claim deduction u/s 80P(2) of the Act. Therefore, it is relevant only in the case of cooperative banks which is claiming deduction u/s 80P and does not apply to deposits made with the cooperative bank which is also a registered cooperative society under the Cooperative society Act, 1912 (2 of 1912) or under any other law for the time being in force in any state for the registration of cooperative societies. The Case relied on by the Ld.DR is distinguishable on the facts that, in that case, the surplus funds which are liable to be paid to its members and shown on the liability side of the balance sheet was deposited with cooperative banks in order to circumvent the decision of the Hon'ble Supreme Court in the case of Totgar's cooperative Sale Society Ltd. v. ITO [(2010) 322 ITR 283]. Since the facts in the instant case are different, this case is not of any help to the revenue. We are therefore inclined to set-aside the order passed by the Ld.CIT(A) and direct the Ld. AO to allow the deduction claimed by the assessee under section 80P(2)(d) of the Act. Thus, Ground raised by the assessee is allowed.

11. In the result, appeal of the assessee is allowed.”

9. *Respectfully following the decision of the Co-ordinate Bench, we are of the considered view that interest income earned from cooperative bank were allowable as deduction under section 80P(2)(d) of the Act and we do not find any reason to interfere with the findings of the Ld. CIT(A). Accordingly, Ground Nos. 1 to 3 raised by the revenue are dismissed.”*

16. This Tribunal has consistently held a view that interest on bank fixed deposits held with the cooperative bank which is a cooperative society engaged in banking activities is eligible for claiming deduction under section 80P(2)(d) of the Act. Accordingly, the Ld. CIT(A) in Para No. 4.4.4 and 4.4.5 held as below: -

“4.4.4 In short, the appellant is a co-operative society and not a Co-operative Bank governed by the Banking Regulation Act, 1949. Further, the appellant received interest income from a Co-operative Bank, which is a Co-operative Society as per the verdict of Karnataka High Court in the case of M/s The Totgars' Co-operative Sale Society Limited (392 ITR 74) and the Hon'ble Supreme Court in the case of The Mavilayi Service Co-operative Bank Ltd (Civil Appeal No. 7343-7350 of 2019). Further, section 80P(4) of the Act provides that the deduction u/s 80P shall not be available to a Co-operative Bank and the appellant doesn't fall under this category. So, the appellant is entitled for deduction u/s 80P of the Act being not a Co-operative Bank and interest was received from a Co-operative Bank being a co-operative society engaged in banking activities. Also, since the appellant received interest income from a Co-operative Society engaged in banking activity, the denial of deduction u/s 80P(2)(d) of the Act is not warranted as there are conflicting decisions on the issue of various high courts. Apart from this, the Hon'ble ITAT in appellant's own case for AY 2013-14 has allowed the deduction u/s 80P(2)(d) of the Act on interest income from the investment in fixed deposits made with the Krishna District Co-operative Central Bank.

4.4.5 In the light of the above facts and legal position, I am of the considered view that the appellant is entitled for deduction u/s 80P(2)(d) of the Act on interest income from Co-operative Bank being a Co-operative Society engaged in the banking business. Hence, AO is directed to allow the deduction u/s 80P(2)(d) of the Act. Thus, the ground no. 4 of the appellant is allowed.”

17. This Bench has consistently held a view that interest from cooperative banks which is a cooperative society shall be allowed as deduction under section 80P(2)(d) of the Act. We therefore find no infirmity in the order of the Ld. CIT(A) and thereby dismiss the ground raised by the revenue.

18. In the result, appeal of the revenue is dismissed.

19. With regard to cross objection filed by the assessee, grounds raised by the assessee are being supportive to the order of the Ld. CIT(A) and since the grounds raised by the revenue are dismissed as aforesaid, the grounds raised by the assessee in the cross objection are considered as infructuous and dismissed.

20. In the result, appeal of the revenue is dismissed and cross objection filed by the assessee is dismissed as infructuous.

Order pronounced in the open court on 09th June, 2025.

Sd/-
(विजय पालराव)
(VIJAY PAL RAO)
उपाध्यक्ष/VICE PRESIDENT
Dated: 09.06.2025
Giridhar, Sr.PS

Sd/-
(एसबालाकृष्णन)
(S. BALAKRISHNAN)
लेखासदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **The Krishna District Milk Producers Mutually Aided Co-op Union Limited**
Milk Products Factory
Chittinagar, Vijayawada – 520009
Andhra Pradesh
2. राजस्व/ The Revenue : **ACIT – CIRCLE – 1(1)**
Income Tax Office
Central Revenue Building
Mahathma Gandhi Road
Vijayawada – 520002
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam