

INCOME TAX APPELLATE TRIBUNAL, GAUHATI BENCH, GUWAHATI
BEFORE SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

AND

SHRI RAKESH MISHRA, HON'BLE ACCOUNTANT MEMBER

ITA No. 136 / GTY / 2023

Asstt.Year: 2018-19

Gomati Co-operative Milk Producers Union Limited Agartala Dairy, ITI Road, Indranagar – 799066 (Tripura) PAN : AABAG9720B	Vs.	The DCIT / ACIT, Circle- Silchar
(Appellant)		(Respondent)

Assessee By:	Shri Kishor Jain, FCA
Department By:	Shri Kaushik Ray, JCIT
Date of Hearing:	18.12.2024
Date of Pronouncement:	20.01.2025

ORDER

PER BENCH

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [NFAC] dated 27.03.2023 (hereinafter referred to as the ('CIT-(A)) passed under section 250 of the Income-Tax Act, 1961 (hereinafter the 'Act') and pertains to the Assessment Year [AY] 2018-19.

2. The grounds of appeal of the assessee are as under:

(i) For that on the facts and circumstances of the case as well as on the points of law the order passed u/s 143(3) as well as u/s 250 are bad in law.

(ii) For that on the facts and circumstances of the case as well as on the points of law the Assessing Officer erred in disallowing the deduction claimed u/s 80P(2)(d) amounting to Rs. 11952563/- and the Ld. CIT(A) also erred in confirming the same.

(iii) For that on the facts and circumstances of the case as well as on the points of law the Assessing Officer erred in deciding that The Tripura State Co-operative Bank is not being a Co-op Society and therefore not allowed deduction u/s 80P(2)(d) on the interest income earned by the assessee.

3. Brief facts of the case are that, the assessee is a Co-operative Society engaged in the business of purchasing milk from primary societies and after processing, sells the milk and milk products in the markets. The assessee filed its return of income for the AY 2018-19 on 30.10.2018 declaring gross total income of Rs. 1,49,10,876/- and total income at Rs. 23,20,400/- after claiming deduction u/s 80P of Rs. 1,25,90,478/- Act. During the course of assessment proceedings, the Id. Assessing Officer [AO] held that in the previous year under consideration, the assessee earned an interest income of Rs. 1,25,40,477/- on deposits with various Co-operative Banks / Commercial Banks and claimed the entire interest income as deduction u/s 80P(2)(d) of the Act. The same was disallowed by the Id. AO by treating it as income from other sources u/s 56 of the Act.

4. Aggrieved, the assessee filed 1st appeal before the Id. CIT(A). The Id. CIT(A) vide order dated 27.03.2023 dismissed the appeal of the assessee.

5. Aggrieved, the assessee filed the present appeal before the Tribunal.

6. Heard the representatives of both the parties and perused the material on record.

7. The Ld. AR submitted that, the Tripura State Co-operative Bank is also a co-operative society, therefore, the interest income earned by the assessee co-operative society is eligible for deduction u/s 80P(2)(d) of the Act. On the other hand, the Ld. DR submitted that, the Tripura State Co-operative Bank is a bank and not a co-operative society and therefore, the claim for deduction u/s 80P(2)(d) of the Act by the assessee is not correct. The Ld. DR supported the orders of the lower authorities.

8. We have carefully considered the submissions of the parties. It is imperative to refer to the observations made by the Id. CIT(A) on the matter. The Id. CIT(A) inter alia, has observed that the plea taken by the appellant that the provisions of section 80P(4) specifically debar the co-operative banks to take the benefit of section 80P(2)(d) of the Act and since the appellant is a co-operative society, the income from such investment made with a co-operative bank should be allowed is not correct. As per section 80P(2)(d), the deduction can only be allowed to any co-operative society from its investments with any other co-operative society. Since, here the investments are made with Tripura Bank and United Bank of India, which, which are a co-operative, commercial bank, respectively (as they are registered under the Banking Regulation Act) and therefore, the deduction u/s 80P(2)(d) is not allowed. In view of the above, any income of a co-operative society in respect of both interest and / or dividends derived from investments with any Co-operative Bank is not eligible for deduction 80P(2)(d) of the Act. Therefore, the grounds taken by the appellant are dismissed.

9. The Bench pointed out that, the Tripura State Co-operative Bank has been doing banking business since many years ago as per section 5 (b) of the Banking Regulation Act and is a Co-operative commercial bank instead of a co-operative society; the Ld. AR could not deny that the Tripura State Co-operative Bank has not been doing business of banking as per the Banking Regulation Act. The Ld. AR relied on the decision of the Hon'ble Madras High Court dated 10.10.2023 passed in the case of Thorapadi Urban Co-Operative Credit Society Limited & Others Vs. ITO, Ward 1, Vellore, Tamil Nadu. However, the case is distinguishable and not applicable to the facts of the assessee. It has been held as under in that case:

■ *A reading of section 80P(2)(d) makes it clear that in the event if any Co-operative Society derived income by way of interest from investment made in any other Co-operative Society the whole such interest is eligible for deduction. Now the issue is as to whether the Co-operative Bank would fall within the purview of the term 'Co-operative Society'. In the present case, the assessee produced a document to show that the Co-operative Bank, where they have made investments was registered under the Tamil Nadu Co-operative Societies Act, 1983 on 20-5-2003. In this regard, he also produced a copy of the Certificate of Incorporation of the said Co-operative*

Bank. Therefore, it is clear that the investment made by the petitioner is a Co-operative Bank registered under the Co-operative Societies Act. [Para 9]

■ *A reading of the definition in section 2(19) 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. [Para 10]*

■ *It would be appropriate to refer a judgment passed by a Division Bench of this Court in 'CIT v. Salem Agricultural Producers Co-operative Marketing Society Ltd.' [2016] 76 taxmann.com 225 (Mad.), wherein, apart from other substantial issues, the following issue has been framed for consideration, which reads as under :*

"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is to be treated as primary agricultural society and is carrying on the business of banking or providing credit facilities to its members and is entitled for deduction under section 80P(2)(a)(i) of the Income-tax Act, 1961 with respect to the interest received from Class B members who were involved in non-agricultural society?"

While answering to the above, the Division Bench held that the respondent therein, which is a Co-operative society, is entitled to avail the benefit under 80P(2)(d). [Para 12]

Thus, a perusal of the order shows that the same has been decided on the issue relating to the applicability of section 80P(2)(a)(i) and 80P(2)(d) of the Act while in the issue before us the benefit of Section 80P(2)(d) was not allowed on account of the prohibition placed by sub-Section (4) of Section 80P of the Act which was not the subject matter of adjudication in the decision relied upon by the assessee in the case of Thorapadi Urban Co-Operative Credit Society Limited & Others (supra). On the contrary, the case of **Principal Commissioner of Income-tax, Hubballi v. Totagars Co-operative Sale Society [2017] 83 taxmann.com 140 (Karnataka)** is on the applicability of Section 80P(2)(d) read with Section 80P(4) of

the Act, the discussion of which is desired for deciding the issue in which it has been held as under:

“■ The assessment years involved in the instant appeals are assessment years 2007-08 to 2011-12. The bone of contention is that the deduction under section 80P(2) is now claimed by the assessee under section 80P(2)(d) and not under section 80P(2)(a) of the Act. The reason is that now the investments and deposits after the Supreme Court's decision against the assessee in Totgar's Co-operative Sale Society Ltd. v. ITO [2010] 322 ITR 283/188 Taxman 282 (SC), the assessee herein has shifted the deposits and investments from Schedule Banks to Co-operative Bank and such Co-operative Bank is essentially a Co-operative Society also and clause (d) allows deduction of income by way of interest or dividends derived by the assessee co-operative Society from its investments with any other co-operative Society. [Para 11]

■The sheet anchor of the contention of the assessee misses two essential points required for claiming the deduction from gross total income for a co-operative society; (i) that the character or nature of income, namely interest on investments or deposits, does not change irrespective of the fact whether it is earned or received from a Schedule Bank or Co-operative Bank, (ii) that What the Supreme Court held in the case of the assessee itself, against assessee, was that such interest income on its surplus and idle funds not immediately required for its business, is not income from business taxable under section 28 of the Act, but was taxable as 'income from other sources' under section 56, whereas for availing the exemption or 100 per cent deduction under section 80P, the income is specified in clauses (a) to (f) of sub section (2) of section 80P which should be its business or operational income. [Para 12]

■What section 80P(2)(d) which was though not specifically argued and canvassed before the Supreme Court, envisages is that such interest or dividend earned by an assessee co-operative society should be out of the investments with any other co-operative society. The words 'Co-operative Banks' are missing in clause (d) of sub section (2) of section 80P. Even though a cooperative bank may have the corporate body or skeleton of a co-operative society but its business is entirely different and that is the banking business, which is governed and regulated by the provisions of the Banking Regulation Act, 1949. Only the primary agricultural credit society with their limited work of providing credit facility to its members continued to be governed by the ambit and scope of deduction under section 80P of the Act. [Para 13] {emphasis supplied}

■ *The banking business, even though run by a Co-operative bank is sought to be excluded from the beneficial provisions of exemption or deduction under section 80P of the Act. The purpose of bringing on the statute book sub-section (4) in section 80P was to exclude the applicability of section 80P altogether to any co-operative bank and to exclude the normal banking business income from such exemption/deduction category. The words used in section 80P(4) are significant. They are: 'The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society.....' The words 'in relation to' can include within its ambit and scope even the interest income earned by the assessee, a co-operative society from a Co-operative Bank. This exclusion by section 80P(4) even though without any amendment in section 80P(2)(d) is sufficient to deny the claim of the assessee for deduction under section 80P(2)(d). The only exception is that of a primary agricultural credit society. The depository Kanara District Central Bank Limited in the present case is admittedly not such a primary agricultural credit society. [Para 14] {Emphasis supplied}*

■ *The amendment of section 194A(3)(v) excluding the Co-operative Banks from the definition of 'Co-operative Society' by Finance Act, 2015 and requiring them to deduct tax at source under section 194A also makes the legislative intent clear that the co-operative banks are not that specie of genus co-operative society, which would be entitled to exemption or deduction under the special provisions of chapter VIA in the form of section 80P of the Act. [Para 15]*

■ *If the legislative intent is so clear, then it cannot be contended that the omission to amend clause (d) of section 80P(2) of the Act at the same time is fatal to the contention raised by the revenue before this Court and sub silentio, the deduction should continue in respect of interest income earned from the co-operative bank, even though the Supreme Court's decision in the case of assessee itself is otherwise. [Para 16]*

■ *As stated above, it is the character and nature of income which determines its taxability or exemption from taxability. It is needless to say that the provisions relating to exemption and deduction need to be strictly construed and no liberal interpretation or intendment can be inferred in such provisions. What was clearly held to be not exempt and not deductible under section 80P(2)(a) by the Supreme Court in the case of assessee, cannot be contrarily held as exempted and deductible now for these years, merely because the depository bank, with whom the investments were made by the assessee happens to be a co-operative bank. One cannot appreciate this distinction so as not to apply the binding precedent of the*

Supreme Court for subsequent years merely on account of the change of the bank where such deposits were made by the assessee, all other facts remaining the same, particularly the nature and character of the income earned by it. The interest income of assessee continues to be not attributable to its business operations even in these subsequent years. [Para 17]

■ *The character of income depends upon the nature of activity for earning that income and though on the face of it, the same may appear to be falling in any of the specified clauses of section 80P(2) of the Act, but on a deeper analysis of the facts, it may become ineligible for deduction under section 80P(2) of the Act. Hence, the income by way of interest earned by deposit or investment of idle or surplus funds does not change its character irrespective of the fact whether such income of interest is earned from a scheduled bank or a co-operative bank and, thus, clause (d) of section 80P(2) of the Act would not apply in the facts and circumstances of the present case. The person or body corporate from which such interest income is received will not change its character, viz. interest income not arising from its business operations, which made it ineligible for deduction under section 80P of the Act. [Para 23]”*

10. The Id. CIT(A) dismissed the claim of the assessee as the assessee derived the interest income from the Co-operative bank / Commercial Bank namely, The Tripura State Cooperative Bank and the United Bank of India. According to the Id. CIT(A) the Tripura State Cooperative Bank is a Society which is a Cooperative Bank as even if a cooperative is registered as a society, but holds a banking license issued in that behalf by the RBI, then it would have the status of a cooperative bank. The Id. CIT(A) also has relied upon certain decisions in support of his observations.

11. We now refer to the provisions of Section 80P(2)(d) of the Act which are as under:

“80P(2)(d) in respect of any income by way of interest or dividends derived by the cooperative society from its investments with any other co-operative society, the whole of such income”.

Thus, section 80P(2)(d) states that the income by way of interest or dividends derived from investments with **any other co-operative society** is eligible for deduction.

12. Further, we have to examine as to whether the Tripura State Co-operative Bank Ltd. is a **co-operative bank** or **merely a co-operative society**. The Tripura State Co-operative Bank Ltd. is a Co-operative Bank and there is no dispute. In this connection, we may refer to the definition of Co-operative bank as defined under the Tripura Co-operative Societies Act, 1974 which defines the Co-operative Bank as under:

"Co-operative Bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Regulation Act, 1949."

Thus, a Co-operative Bank is a Co-operative society which is doing the business of banking and is distinguishable from a society not doing the business of banking.

13. Again, by the 2nd amendment of the Tripura Co-operative Societies Act, 2009, the Tripura State Co-operative Banks have been declared as a Co-operative Society doing the business of banking with their jurisdiction defined as under:

"State Co-operative Bank means an apex co-operative society doing the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949 and having jurisdiction over whole of Tripura State and declared as such by the State Government under clause (u) of section 2 of the National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981)".

14. In this respect, as per section 2(19) of IT Act "*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. Further, as per the provisions of section 80P(4) of IT Act, *the provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.*

15. Since for the purpose of section 80P of the Act Co-operative Bank has the meaning assigned to it in PART V of the Banking Regulation Act, 1949 inserted by Act 23 of 1965, s. 14 (w.e.f. 1-3-1966) and is regarding application of the Banking

Regulation Act, 1949 to co-operative banks, it is imperative to refer to section 56 of the same, which is as under:

[PART V]

APPLICATION OF THE ACT TO CO-OPERATIVE BANKS

56. Act to apply to co-operative societies subject to modifications.—
8[Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act], shall apply to, or in relation to, co-operative societies as they apply to, or in relation to, banking companies subject to the following modifications, namely:—

(a) throughout this Act, unless the context otherwise requires, -

(i) references to a “banking company” or “the company” or “such company” shall be construed as references to a co-operative bank,

(ii) references to “commencement of this Act” shall be construed as references to commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 (23 of 1965);

1[(iii) references to “memorandum of association” or “articles of association” shall be construed as references to **bye-laws**;

(iv) **references to the provisions of the Companies Act, 1956 (1 of 1956), except in Part III and Part IIIA, shall be construed as references to the corresponding provisions, if any, of the law under which a co-operative bank is registered;**

(v) references to “**Registrar**” or “Registrar of Companies” shall be construed as references to “Central Registrar” or “**Registrar of Co-operative Societies**”, as the case may be, under the law under which a co-operative bank is registered;]

(b) in section 2, the words and figures “the Companies Act, 1956 (1 of 1956), and” shall be omitted;

(c) in section 5,—

2[(i) after clause (cc), the following clauses shall be inserted namely:—

(cci) **“co-operative bank” means a state co-operative bank, a central co-operative bank and a primary co-operative bank;**

(ccii) “co-operative credit society” means a co-operative society, the primary object of which is to provide financial accommodation to its members and includes a co-operative land mortgage bank;

3[(cciiia) **“co-operative society” means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;**]

(cciii) “director”, in relation to a co-operative society, includes a member of any committee or body for the time being vested with the management of the affairs of that society;

2[(cciiia) “multi-State co-operative bank” means a multi-State co-operative society which is a primary co-operative bank;

(cciiib) “multi-State co-operative society” means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;]

(cciv) “**primary agricultural credit society**” means a co-operative society,—

(1) the primary object or principal business of which is to provide financial accommodation to its members for agricultural purposes or for purposes connected with agricultural activities (including the marketing of crops); and

(2) the bye-laws of which do not permit admission of any other co-operative society as a member: Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose;

(ccv) “**primary co-operative bank**” means a co-operative society, other than a **primary agricultural credit society**,—

(1) the **primary object or principal business of which is the transaction of banking business**;

(2) the paid-up share capital and reserves of which are not less than one lakh of rupees; and

(3) the bye-laws of which do not permit admission of any other co-operative society as a member:

Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose;

(ccvi) “**primary credit society**” means a co-operative society, other than a primary agricultural credit society,—

(1) the primary object or principal business of which is the transaction of banking business;

(2) the paid-up share capital and reserves of which are less than one lakh of rupees; and

(3) the bye-laws of which do not permit admission of any other co-operative society as a member:

Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose.

*Explanation.—If any dispute arises as to the primary object or principal business of any co-operative society referred to in clauses (cciv), (ccv) and (ccvi), a determination thereof by the Reserve Bank shall be final; (ccvii) “central co-operative bank”, 1*** “primary rural credit society” and “state co-operative bank” shall have the meanings respectively assigned to them in the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);] 2[(ii) clauses (ff), (h) and (nb) shall be omitted;]*

16. Thus, both “**co-operative bank**” as well as “**co-operative credit**” society are defined under sub-clauses (cci) and (ccii) in section 56 read with section 5 of the Banking Regulation Act, 1949 [PART V] and **while a primary co-operative bank is a co-operative society, all co-operative societies are not co-operative banks.** Thus, the terms co-operative society and co-operative bank have to be understood in the context in which they are used and are not interchangeable in all situations. In view of the aforesaid discussion made in the preceding paras, it is evident that, the Tripura State Co-operative Bank Ltd. is co-operative Society doing the business of banking and therefore, **it is a co-operative bank and not merely a cooperative society which is doing the business of banking.** Thus, the Tripura State Co-operative Bank Ltd. is a co-operative bank even though it may be a co-operative society.

17. As is elaborated above, a co-operative society per se is not permitted to carry on the business of banking as per Part V of the Banking Regulation Act unless it is a Co-operative Bank which has been issued the requisite license by the RBI. The assessee relies upon the provisions of Section 80P(2)(d) of the Act in support of its claim that the Tripura State Co-operative Bank Ltd. is a Society and therefore, the interest from the same should be allowed as a deduction u/s 80P(2)(d) of the Act. In this respect, the provisions of the statute have to be read as a whole and not in isolation. Since the terms ‘Society’ and ‘Co-operative Bank’ appear specifically at different places in section 80P and as per Section 80P(2)(d) of the Act, the interest or dividend income of the cooperative Society received from any other cooperative Society is exempt, but by virtue of the amendment with effect from 01.04.2007, the provisions of Section 80P of the Act shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, all of

which have been defined as per Part V of Banking Regulation Act, 1949 and therefore, a Co-operative Bank, though being a Society and carrying on the business of banking, however is not entitled to the benefit of Section 80P of the Act by virtue of sub-Section (4) thereof, as it is treated at par with a bank and is granted the deduction available to the bank as per section 36(1) of the Act. It would be apposite to also refer to the memorandum to the Finance Act, 2007 which explains the rationale behind amendment in Sections 80P and 36(1) of the Act. In the Memorandum to the FINANCE BILL, 2007 for PROVISIONS RELATING TO DIRECT TAXES, the substance of the main provisions in the Bill relating to direct taxes is explained in the paragraphs following therein. Under the RATIONALISATION AND SIMPLIFICATION MEASURES - Deduction in respect of any provision for bad and doubtful debts to be allowed in the case of co-operative banks under section 36(1)(viia), it is explained as under:

“Under the existing provisions of clause (viia) of sub-section (1) of section 36, deduction of an amount not exceeding seven and one-half per cent. of the total income (computed before making any deduction under the said clause and Chapter VIA) and an amount not exceeding ten per cent. of the aggregate average advances made by the rural branches of a scheduled bank or a non-scheduled bank computed in the prescribed manner is allowed as deduction in the computation of income of such banks. “Scheduled bank”, as defined in the Explanation to clause (viia) of sub-section (1) of the section 36, does not include a co-operative bank.

The deduction earlier allowable under section 80P in the case of a co-operative society engaged in carrying on the business of banking (co-operative banks) has been withdrawn from assessment year 2007-2008 barring in the case of a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Since profits of co-operative banks are now taxable after withdrawal of deduction available to a co-operative society engaged in carrying on the business of banking under section 80P, such co-operative society banks should be allowed deduction in respect of any provision for bad and doubtful debts as its profits have become taxable. The amendment proposes to allow this deduction to co-operative banks not being a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

The definition of scheduled bank in clause (ii) of Explanation to said clause (viiia) is also proposed to be amended to include scheduled co-operative banks within the definition.

Under the existing provisions contained in the Explanation to item (fa) of sub-clause (iv) of clause (15) of section 10, the expression “scheduled bank” has been defined to have the meaning assigned to it in clause (ii) of the Explanation to clause (viiia) of sub-section (1) of section 36 which does not include co-operative banks. However, the definition of “scheduled bank” after the proposed amendment will include scheduled co-operative banks. The referral definition of “scheduled bank” presently occurring in the Explanation to the aforesaid item (fa) does not allow exemption of interest payable to a non-resident or a not ordinarily resident by a co-operative bank. In order to continue with this position, the definition of “scheduled bank” in its pre-amended form in clause (ii) of Explanation to clause (viiia) of sub-section (1) of section 36 is being substituted for the existing Explanation in the aforesaid item (fa) to ensure that the scope of the exemption allowed under the aforesaid item (fa) is not changed. The proposed substitution of the definition of “scheduled bank” in the said item (fa) meets with this objective.

The proposed amendment to the definition of “scheduled banks” as it appears in section 36 will also have the effect of making the provisions of section 43D applicable to scheduled co-operative banks.

These amendments will take effect, retrospectively, from 1st April, 2007 and will, accordingly apply in relation to the assessment year 2007-2008 and subsequent years. [Clauses 6 and 12]”

18. Thus, the legislative intention behind the amendments was to bring Co-operative Banks at par with commercial Banks and the provisions of Clause (d) of sub-Section (2) of Section 80P of the Act apply in respect of any income by way of interest or dividend derived by the co-operative Society from its investments with any other Society. Since Co-operative Bank and co-operative Society have been specified at different places in Section 80P of the Act, the reference to co-operative Society in Section 80P(2)(d) of the Act is a reference to the co-operative Society which is not a Co-operative Bank and is not carrying on any banking activity while the reference to Co-operative Bank in sub-Section (4) of Section 80P of the Act is to an entity which is a cooperative Society but is carrying on the business of banking and is governed by the rules and regulations of the RBI.

Simultaneous to the insertion of sub-Section (4) to Section 80P of the Act, the Co-operative Banks were treated at par with the other commercial banks and the deduction u/s 36(1)(viiia) of the Act in respect of provisions made for bad and doubtful debts was also extended to a Co-operative Bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank with effect from 01.04.2007. Therefore, with effect from 01.04.2007 all Co-operative Banks for the purpose of Income Tax Act have been brought at par with other commercial banks and any interest or dividend received from a Co-operative Bank is no longer allowable as a deduction u/s 80P(2)(d) of the Act. Thus, even in respect of interest from Tripura State Co-operative Bank Ltd., (which has been declared as a co-operative Society by virtue of the second amendment of the Tripura Cooperative Societies Act, 2009), by virtue of the prohibitory amendment introduced by way of introduction of sub-Section (4) to Section 80P of the Act, the interest from Tripura State Co-operative Bank Ltd., is not deductible u/s 80P of the Act. Part V of the Banking Regulation Act, 1949 specifically bars a Co-operative Bank to be a member of any other co-operative Society. Therefore, both on the principle of mutuality and the provision of Section 80P(4) of the Act read with Part V of the Banking Regulation Act, 1949, the interest from Tripura State Co-operative Bank Ltd. is also not exempt. Treating a Co-operative Bank at par with co-operative Society and allowing them the benefit of Clause (d) of sub-Section (2) of Section 80P of the Act would render the provisions of sub-Section (4) of section 80P otiose. Therefore, all the grounds of appeal are dismissed relating to interest from Tripura State Co-operative Bank Ltd. and United Bank of India and the order of the Ld. CIT(A) in this regard is hereby confirmed.

19. In the result, the appeal of the assessee is dismissed.

20. Order pronounced in the open court on this 20th day of January, 2025

Sd/-
(Rakesh Mishra)
Accountant Member
Dated: 20/01/2025.

Sd/-
(Manomohan Das)
Judicial Member

Copy forwarded to:

1. Gomati Co-operative Milk Producers Union Limited, Agartala Dairy, ITI Road, Indranagar – 799066, (Tripura)
2. The DCIT / ACIT, Circle- Silchar.
3. Pr.CIT/CIT
4. CIT(A)
5. DR, ITAT, GAUHATI
6. Guard File.

By Order

Assistant Registrar
ITTAT, Kolkata/Guwahati