

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

(HYBRID HEARING)

I.T.A. Nos. 513 to 516/Asr/2024

Assessment Years: 2013-14, 2017-18, 2018-19 and 2020-21

The Jassomazara Coop. Multipurpose, Society Ltd. VPO, Jassomazara, [PAN:-AAAJT1535D] (Appellant)	Vs.	Asstt. Commissioner of Income Tax, Circle-2, Jalandhar. (Respondent)
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Appellant by	Sh. Rakesh Joshi, Adv.
Respondent by	Sh. Manpreet Singh Duggal, Sr. DR

Date of Hearing	08.04.2025
Date of Pronouncement	30.06.2025

ORDER

Per: Udayan Dasgupta, J.M. :

This appeal is filed by the assessee against the order of the Ld. CIT (A), NFAC, passed u/s 250 of the Act 61, dated 12th July, 2024, which has emanated from the order of the AO passed u/s 147 r.w.s. 144B of the Act, dated 30/03/2022.

2. All the above appeals relating to four assessment years are almost on identical facts and common issues are involved and as such, for the sake of convenience, are taken up together and we take up assessment year 2013-14 as the lead case **I.T.A. No. 513/Asr/2024.**

I.T.A. No. 513/Asr/2024

3. The grounds of appeal taken by the assessee in form 36 are as follows:

“1. That the order of Ld. Commissioner of Income Tax (Appeals)-NFSC Delhi, is against law & facts of the case.

2. That the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi has erred in law & facts of the case in confirming the addition of Rs.42,47,978/= to the returned income.

3. That the Ld. Commissioner of Income Tax (Appeals) NFAC, Delhi Further also erred in law & facts of the case in conforming the disallowance of Deduction u/s.80-P to the assessee/appellant.

4. That the impugned order under appeal is arbitrary and contrary to law & facts of the case, hence deserves to be cancelled.

5. That the appellant craves leave to add/alter or forgo any of the grounds of appeal before or at the time of hearing of appeal.”

4. Brief facts emerging from records are that the assessee is a cooperative multipurpose society registered under *Punjab Society Registration Act 1961*, mainly engaged in the business of ***providing credit facility to its members for the purpose of development of agriculture***, apart from performing other allied activities like arranging fertilizers, seeds, pesticides, agricultural implements, for use by its members and for sale of agricultural produce , to act as agents, and

engage in trading activities of consumer / non consumer goods for benefit of its members and are engaged in various other allied activities .

5. In response to notice u/s 148 dated 16/03/2021, return has been filed by the assessee declaring NIL income after claiming deduction u/s 80P (*chapter VIA*) amounting to Rs.42,47,978/- , which has been disallowed by the AO, treating the said deduction as income of the assessee, under the head “*income from other source*”, by observing in paragraph – 5 of the order, that the assessee has earned interest income on investment made with **Nationalised Bank, Scheduled Bank, Cooperative banks** and assessee has also claimed the same as deduction u/s 80P(2)(a) of the Act .

6. It is also observed by the AO in paragraph – 5 (page –7) of assessment order (*last sentence reproduced*):

“In the present case at hand, the assessee in addition to carrying on the business of banking and providing credit facilities to its members also made investment in Banks from which it earned interest income and also received Dividend income on Bank shares.

6.1 The AO has further reproduced the computation of the assessee in the assessment order (*page -6*) which gives breakup of the income (along with detail note) in respect of income earned under different heads (*which is a part of the reply of the assessee dated 16/03/2022*):

(a) <i>Interest income from members and Bank</i>	<i>Rs. 86,92,939/-</i>
(b) <i>Income from Tractor</i>	<i>Rs. 5.51 lakhs</i>
(c) <i>Admission Fees</i>	<i>Rs. 3070</i>

<i>(d) Agricultural implements</i>	<i>Rs. 1882</i>
<i>(e) Dividend</i>	<i>Rs. 6.21 lakhs</i>
<i>(f) Trading Profits</i>	<i>Rs. 1.15 lakhs</i>
<i>(g) Misc Income</i>	<i>Rs. 130</i>

6.2 It is also stated in the submission of the assessee (*page – 6 of the order*) relevant portion is as under :

Profits from providing credit facility to the members of the society is liable for deduction u/s 80P(2)(a)(i) ie. Interest recovered from members and Bank Rs. 86,92,939/- , Admission Fee Rs. 3070/- Misc Incomeetc,etc

6.3 It is on the face of such computation provided by the assessee society, in its written submissions and explanation before the AO, in course of assessment proceedings, the AO arrived at a conclusion that the assessee society has earned interest income from Banks (*in absence of any bifurcation available before him*) and the total of such interest received from members and from banks together is stated to be *Rs. 86.92 lakhs*, which as per the written computation filed by the assessee has been claimed to be *deductible u/s 80P(2)(a)(i) of the Act 61*, being profits and gains from business.

6.4 Even in reply to the last SCN dated 29/03/2022, the assessee has submitted details for deduction claimed *u/s 80P(2)(a)(i) and u/s 80P(2)(a)(iv)*, and *80P(2)(c) (ii)*, without submitting any details of claim relating to deduction under *section 80P(2)(d)* of the Act 61, (*as per narration of the AO in para – 5 of the order*) ,

which the Ld AR of the assessee is claiming before the tribunal (*at the second appeal stage*) unsupported by any documentary evidence.

7. It is observed by us that it is on the basis of the assessee's own written submission before the AO , regarding its claim of deduction u/s 80P of the Act 61 , the AO has arrived at a conclusion that interest derived by the assessee from the members and banks, are **derived from nationalised banks** and since the assessee has claimed deduction u/s 80P(2)(a)(i) on the same , means it has been considered as part of business profits of the assessee , because the assessee is already carrying on business *for providing credit facilities to its members* , and in such cases the law is already laid down by the Hon'ble Apex court in the case of “ *Totagars Cooperative Sale Society vs ITO [2010]322 ITR 0283 dated 8th Feb 2010*, that special deduction must relate to operational income of the society providing credit facility to members and interest earned from investments in deposits out of surplus funds , is not business income but income from other sources *u/s 56 of the Act 61* .

8. As such, on the basis of the facts put up by the assessee vide its written explanations, before the AO, in course of re assessment proceedings, before him, the AO has disallowed *the claim u/s 80P(2)(d) of the Act 61*, and has assessed the interest portion received from bank amounting to *Rs. 42.47 lakhs*, under the head *Income from other sources u/s 56 of the Act 61*.

9. The matter was carried in appeal before the first appellate authority and the *Ld. CIT (A) NFAC*, has also considered the interest income to have been earned

on FDR maintained with Nationalised banks , Schedule Banks and cooperative banks and has proceeded on the basis of the law laid down by the *Hon'ble Apex court in the case of Totgars Cooperative SS Ltd vs ITO (supra)* , holding that interest income earned from investments with bank cannot be attributed as income from its business activity. Thereafter, the Ld CIT(A) further relied on the decision of the jurisdictional High court in the case of *CIT vs Punjab State Co operative Agricultural bank ltd 389 ITR 607 (Punjab and Haryana)* , and dismissed the appeal holding as follows :

“7.16 Thus, in the case of the appellant the income earned from investments with Banks is not income that is earned from eligible activity. It is not income arising from any of the eligible activities as mentioned in clause (a) of sub section 2 of section 80P. This is income arising purely from investments made by the appellant. The appellant has invested its surplus funds to earn income. Income arising from investment of such surplus fund would be taxable under the head Income from Other Sources.

7.17 Similarly the Dividend income earned by the appellant is not from the eligible activity u/s 80P(2)(a). The dividend income is also income earned from parking of surplus fund with institutions that would help the appellant earn income. Such parking of funds is for investment with the sole purpose of earning income and such income that arises from investment activity will be taxable under the Head Income from Other Sources.

7.18 Therefore, respectfully following the judgement of Hon'ble Supreme Court and Hon'ble High Court of Punjab and Haryana and Hon'ble High Court of Karnataka, the addition of interest income and Dividend income by the AO does not warrant interference.

8. In the result the appeal is dismissed.”

10. Now in course of hearing before the tribunal the Ld AR of the assessee has filed a written submission , stating that during the period under appeal the assessee society has made deposits out of its reserve funds in cooperative banks namely (a) ***The Nawanshahr Central Cooperative Bank Limited***, and (b) ***The Citizen Urban Cooperative Bank Limited***, which are also cooperative societies registered under the Cooperative Societies Act of the concerned states or under Multi State Cooperative Societies Act and are licensed by RBI to do business in banking , but its status remains a cooperative society.

11. The crux of the argument of the Ld. AR is that the **interest or dividend**, derived by the assessee from these two above cooperative banks against investment of surplus in fixed deposits, are deductions available to the assessee society under provisions of section 80P(2)(d) of the Act 61, because these tantamount to investments being made with any other cooperative society, because for all practical purpose cooperative banks are also cooperative societies.

In support of his argument, the Ld. AR relied on the decision of the Hon'ble Supreme Court in the case of *PCIT – 17, Mumbai vs Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Limited [civil appeal no 8719 / 2022 dated 20/04/2023]* , where however, the issue was different, where it was held that

cooperative credit society is not a bank for the purpose of section 80P(4) of the Act 61. *(That is not the point of dispute in the instant case before us).*

12. The Ld. AR also relied on the ITAT, coordinate bench decision in the case of (i) “ *Urapar Cooperative Service Society* ” ITA No 89/ASR / 2021, order dated 23/05/2023 (ii) *The Khan Khana Cooperative Agri SS Ltd* ITA No 210/ASR/ ASR order dated 26/06/2024 and prayed that since the issues are already decided in favour of the assessee in the above mentioned cases , the claim for deduction u/s 80P(2)(d) of the Act 61, in the instant case may also be allowed relating to the interest earned by the assessee society from investments made in cooperative banks , as mentioned in the written submission.

13. The Ld. DR, relied on the order of the Ld. CIT (A), and the order of the AO, and submitted that firstly, there is no bifurcation of the interest earned, available, as to how much of the total interest receipt of Rs. 86.92 lakhs, pertains to members and how much from banks, and which are the banks involved,

(ii) secondly, the names of the cooperative banks now stated by the Ld AR, *The Nawanshahr Central Cooperative Bank Limited*, and (b) *The Citizen Urban Cooperative Bank Limited*, has never been placed before the AO in course of re-assessment and it does not find mention in the computation of income filed by the assessee , as reproduced in the body of the assessment order, and as such he argues that the admissibility of the same is subject to verification, (iii) the assessee in his written submission and computation filed , before the AO has claimed the entire interest received from members and bank FD **as part of business receipts** and has claimed deduction as per provisions of *section 80P(2)(a)(i)* of the Act and nowhere in the computation of income and the enclosed notes and explanation filed by the assessee there is any indication of claim of deduction u/s 80P(2)(d) of the Act 61

and (iv) even in the reply to SCN dated 29/03/2022, the claim of the assessee is restricted to *sections 80P(2)(a)(i) and u/s 80P(2)(a)(iv)* .

14. He further submitted that before the Ld. CIT (A) , also, no bifurcation of interest income has been furnished with any supporting documentary evidence relating to interest actually earned from cooperative banks and in absence of any documentary evidences regarding actual investments in co-operative banks , the Ld CIT (A) has given a ***specific finding in para 7.2 and 7.3 of the appellate order*** , that FD is maintained in nationalised banks , Schedule banks and cooperative banks , without any bifurcation of quantum , and as such he adjudicated on the claim relating to *section 80P(2)(a)(i) of the Act* , as claimed by the assessee in re-assessment proceedings and has correctly followed the law laid down by the Hon'ble Apex court in the case of “ *Totgars Cooperative Sale Society (Supra)* , and has rightly held that interest income earned on bank FD will be assessed separately under the head “ *Income from other source*”, and he prays for upholding the order of the first appellate authority.

15. We have heard the rival submissions and considered the materials on record and we find the case is deficient on factual evidences , in as much the claim of the assessee before the AO was under section *80P(2)(a)(i)* where vide its written submission and computation during reassessment proceedings , the assessee has claimed the interest from banks as part of business income , without any bifurcation of interest actually earned from members and from banks (*without any specification whether nationalised banks or cooperative banks*) and without furnishing any details of investment actually made in co operative banks . In absence of any whisper in the computation filed by the assessee regarding claim u/s 80P(2)(d) of the Act, the AO cannot be faulted for considering the same to be

interest earned from scheduled banks and proceeding accordingly as per the law laid down by the Hon'ble Apex court, and treating the FD interest portion as *income from other sources u/s 56 of the Act 61*. Moreover, in the entire body of the assessment order there is no mention or discussion regarding the quantum of investments being exclusively made with cooperative banks on the other hand the finding of the AO in the order (*para – 5*) , indicates investment in Nationalised banks, schedule banks and cooperative banks , all together . This exclusive claim of investments in cooperative banks, came up for the first time in the written submission before the tribunal. Moreover, the said issue regarding claim u/s 80P(2)(d) has also not been properly taken up in the *grounds in form 35 (in first appeal)*, nor has it been discussed by the Ld. CIT (A) in his order, even though we find that the same was a part of the appellate submissions.

15.1 However, and there is no finding regarding the verification of documentary evidences on this issue as rightly pointed out by the Ld. DR, and *in para 7.2 and 7.3 of the appellate order*, the finding of the Ld. CIT (A), also points towards earning of interest income on FDR's maintained with nationalised banks, scheduled banks and cooperative banks (*all together*) which are identical findings of that of the AO. Legally, interest income on bank FD from nationalised banks, scheduled banks (*which are not cooperative society*) cannot be claimed as deduction u/s 80P(2)(d) of the Act 61.

15.2 We further observe that the Ld. first appellate authority , has never adjudicated on the issue of the claim of the assessee u/s 80P(2)(d) of the Act 61 , and has decided the matter considering the interest income to have been earned by the assessee from schedule banks and has relied on the Hon'ble Apex court in the case of *Totgars Cooperative sale Society (supra)* and also on the jurisdictional

High Court in the case of *Punjab State Cooperative Agricultural bank Ltd (supra) (Punjab and Haryana)* to dismiss the claim of deduction of the assessee.

15.3 As such in the interest of justice , we are of the opinion that factual aspect of the matter needs to be verified at the onset , before rendering proper justice , and we find that the submissions of the assessee at the appellate stage on facts are in contradiction with the factual submission and computations filed before the AO in course of reassessment proceedings (*as reproduced in the assessment order*) and the case is deficient in factual evidence and has proceeded on the basis of incorrect factual representations leading to incorrect findings.

15.4 In our humble opinion, interest of justice will be best served if the matter is remanded back to the Ld. CIT (A), to consider the claim of the assessee that interest income is earned out of investments in cooperative banks only and not from any Nationalised Banks, Schedule banks, as wrongly mentioned, and the assessee claims deduction u/s 80P(2)(d) of the Act, in respect of the interest portion derived from cooperative banks only.

16. Since this specific claim of deduction u/s 80P(2)(d) of the Act, has remained un-adjudicated, quite likely in absence of any documentary evidences or any paper book in support of such claim, we remand the matter to the Ld. first appellate authority to adjudicate on this issue after calling for necessary particulars from the assessee and after obtaining necessary report from the AO as per provisions of law.

17. The assessee shall be allowed reasonable opportunity of being heard.

18. In the result the appeal of the assessee is allowed for statistical purpose.

19. Asst Year: 2017-18 : The issue in this year is also the same regarding claim of deduction u/s 80P(2)(d) of the Act 61 , in respect of interest earned on fixed deposits, by the assessee from cooperative banks (other cooperative societies) , but in this year also the finding of the AO in *para 5.1 (iii) Page – 5* of the assessment order , the observation of the AO reads as follows “ *The interest was received from the cooperative bank and **other commercial bank** which were not members of the assessee cooperative society* “

20. The Ld. CIT (A) has followed the law laid down by the Hon’ble Apex court in the case of *Totgar Sale Society Ltd (Supra)*, and relied on the jurisdictional High court in the case of *Punjab State Cooperative Agricultural Bank Ltd (Supra)* to dismiss the appeal . *provisions of section 80P(2)(d)*

Asst Year : 2018-19 :

21. The issue is the same as of earlier year but the claim of the assessee and submission is different , where in the written submission before the AO (refer *page – 3 of the assessment order*) the assessee has claimed the deduction of interest earned from bank FD , **u/s 80P(2)(a)(i)** of the Act, which means the said interest portion is considered as part of **business profits** by the assessee , following which the Ld CIT (A) has followed the law laid down by the Hon’ble Apex court in the case of *Totgar Sale Society Ltd (Supra)*, and relied on the jurisdictional High court in the case of *Punjab State Cooperative Agricultural Bank Ltd (Supra)* to dismiss the appeal .

Asst Year : 2020-21

22. The issue is identical but again the finding of the AO in para 5.3 of the assessment order dated 28/03/2021, (conclusions drawn) reads as follows “ *It is beyond any doubt that the assessee’s claim for deduction with respect to interest income earned from different cooperative banks , commercial banks and other financial institutions is not found to be allowable deduction under any provisions of section 80P*”

22.1 Now coming to the first appeal order, the decision part of CIT (A) order , there is again a clear finding in para 6.2 of the appellate order which reads as follows “ *The core contention of the appellate as is borne out form its submissions is that it is entitled to deduction u/s 80P(2)(d) of the income tax Act 61, to the extent of the interest income of Rs.49,35,442/- earned on FDR ‘s maintained with cooperative banks, commercial banks and other financial institutions ”*

23. Thereafter, the Ld. CIT (A) has followed the law laid down by the Hon’ble Apex court in the case of *Totgar Sale Society Ltd (Supra)*, and relied on the jurisdictional High court in the case of *Punjab State Cooperative Agricultural Bank Ltd (Supra)* to dismiss the appeal .

24. The facts of this case needs to be brought out clearly on record for proper adjudication in the matter, and it is seen that as stated above, the findings of the department in respective years that interest is earned from ‘**commercial banks**’ will not entitle the assessee to claim deduction *u/s 80P(2)(d) of the Act*, because the same is only restricted to interest earned from cooperative society.

25. As such , since we have already remanded the matter for Asst year 2013-14, to the Ld first appellate authority to adjudicate on this issue of claim for deduction

u/s 80P(2)(d) , after calling for necessary particulars from the assessee and after obtaining necessary report from the AO as per provisions of law, after arriving at a proper finding , we also remand these three appeals for the Asst year 2017-18, 2018-19 and 2020-21, to be decided based on actual findings, and to be adjudicated as per provisions of law.

26. In the result, all the four appeal of the assessee are allowed for statistical purpose.

Order pronounced on 30.06.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(KRINWANT SAHAY)
Accountant Member

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

True Copy
By order

		Date	Initial	
1.	Draft dictated on	19.06.25		Sr.PS/ PS
2.	Draft placed before author	19.06.25		Sr.PS/ PS
3.	Draft proposed & placed before the Second Member			JM/A M
4.	Draft discussed/approved by Second Member			JM/A M
5.	Approved Draft comes to the Sr. P.S./P.S.			Sr.PS/ PS
6.	Kept for pronouncement on			Sr.PS/ PS
7.	File sent to the Bench Clerk			Sr.PS/ PS
8.	Date on which file goes to the Head Clerk			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order			