

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)**

**AND**

**SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 2887/MUM/2025  
Assessment Year: 2015-16**

Jai Jalaram Co-operative Credit  
Society Ltd.,  
Shop No. -2 Ground Floor, Shop  
No. -2 Ground Floor, Mulund  
Siddhivinayak C.H.S. Near  
Punjab National Bank Zaver  
Road, Mulund West,  
Mumbai-400080.

**PAN NO. AAAAJ 2603 B**

**Appellant**

**Vs.**

The ITO Ward 29(1)(5),  
Kautilya Bhavan, Bandra Kurla  
Complex,  
Mumbai-400051.

**Respondent**

Assessee by : None  
Revenue by : Mr. Pravin Chavan, Sr. DR

Date of Hearing : 23/06/2025  
Date of pronouncement : 30/06/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 13.03.2025 passed by the Ld. Commissioner of Income-tax (Appeals)-1, Visakhapatnam [in short 'the Ld. CIT(A)'] for assessment year 2015-16, raising following grounds:



*1. The Ld. CIT(Appeals), NFAC has erred in dismissing the appeal and denying the deduction u/s 80P(2)(a)(i) of The Income Tax Act, 1961*

*2. The Ld. CIT(Appeals), NFAC has erred holding that the interest income earned by a cooperative society on its investments held with a Co-operative banks/Nationalised banks would not be eligible for claim of deduction under Sec.80P(2)(d)/ 80P(2)(a)i*

*3. Your appellant further reserves the rights to add, amend or alter the aforesaid grounds of appeal as they may think fit by themselves or by their representatives.*

2. Briefly stated the facts of the case are that the appellant is a co-operative credit society and had filed the return of income for A.Y. 2015-16 declaring total income at Rs. NIL after claiming deduction u/s. 80P(2)(a)(i) of the Income-tax Act, 1961 (in short the Act) amounting to Rs. 2,86,069/-. The case of the assessee was selected for scrutiny under CASS and order u/s. 143(3) of the Act was passed on 14.12.2017 denying the deduction u/s. 80P(2)(a)(i) as well as u/s. 80P(2)(d) of the Act. The Assessing Officer rejected the deduction u/s. 80P(2)(a)(i) on the ground that the assessee co-op. society fulfills the condition laid down u/s. 56(c)(ccv) of part V of the Banking Regulation Act and is a co-operative bank and since assessee is covered within the purview of a primary co-operative bank, the provisions of section 80P(4) are applicable resulting and that even the interest income earned from various co-operative banks is not its business income but is to be classified under the head "Income from Other Sources". As regards the alternate plea of deduction u/s. 80P(2)(d), the Assessing Officer rejected even this deduction on the ground that the investments are made by the



assessee in co-operative banks and that a co-operative bank is a urban commercial bank and does not fall under the purview of a “Co-operative Society” referred in Section 80P(2)(d) of the Act.

3. Aggrieved by this disallowance made by the Assessing Officer, the assessee challenged it before the CIT(A) who confirmed the same. The relevant extract of the CIT(A)’s order is as under:-

*“6.3 I have carefully gone through the assessment order, grounds of appeal and submissions made by the appellant. It is seen from the assessment order that the AO has made addition of Rs 2,86,069/- by disallowing the claim of deduction u/s 80P of the IT Act. In this case, assessee received interest income from deposits with Cooperative banks As assessee got interest income from Co-operative banks and not from co-operative society, AO denied the claim of deduction u/s 80P of the IT Act. Aggrieved with the above addition, appellant filed present appeal and submitted that appellant would be eligible for deduction u/s 80P of the IT Act.*

*6.3.1 In this regard, it is pertinent to mention that as per the provisions of section 80P(2)(d), a cooperative society is eligible for claiming deduction under this section in respect of interest income or dividends earned from other cooperative societies only. Further the AO disallowed the deduction claimed for the interest earned from Cooperative banks u/s 80P. With regard to the interest or dividend income earned from a Co-operative bank/ Scheduled Bank, the Hon'ble Supreme Court in the case of Kerala State Co-operative Agricultural and Rural Development Bank Ltd. KSCARDB vs. The Assessing Officer, Trivandrum & Ors. in Civil Appeal Nos. 10069 of 2016 dated 14.09.2023 analyzed the legal framework, relevant provisions under relevant cooperative societies Act, NABARD Act, provisions of sec. 80P under the Income Tax Act, 1961, RBI Act, the Banking Regulation Act and the various judicial precedents on similar issues. The observations of Hon'ble Supreme Court in para 14.3 and 15.8 are of relevant that reads as under:-*

*"14.3. While analysing Section 80P of the Act in depth, the following points are noted by this Court:*



*i) Firstly, the marginal note to Section 80P which reads "Deduction in respect of income of co-operative societies" is significant as it indicates the general "drift" of the provision.*

*ii) Secondly, for purposes of eligibility for deduction, the assessee must be a "co-operative society"*

*iii) Thirdly, the gross total income must include income that is referred to in sub-section (2)*

*iv) Fourthly, sub-clause (2)(a)(i) speaks of a co-operative society being "engaged in". inter alia, carrying on the business of banking or providing credit facilities to its members.*

*v) Fifthly, the burden is on the assessee to show, by adducing facts, that it is entitled to claim the deduction under Section 80P.*

*vi) Sixthly, the expression "providing credit facilities to its members" does not necessarily mean agricultural credit alone. It was highlighted that the distinction between eligibility for deduction and attributability of amount of profits and gains to an activity is a real one. Since profits and gains from credit facilities given to nonmembers cannot be said to be attributable to the activity of providing credit facilities to its members, such amount cannot be deducted.*

*vii) Seventhly, under Section 80P (1) (c), the co-operative societies must be registered either under Cooperative Societies Act, 1912, or a State Act and may be engaged in activities which may be termed as residuary activities i.e. activities not covered by sub-clauses (a) and (b), either independently of or in addition to those activities, then profits and gains attributable to such activity are also liable to be deducted, but subject to the cap specified in sub-clause (c).*

*viii) Eighthly, sub-clause (d) states that where interest or dividend income is derived by a co-operative society from investments with other co-operative societies, the whole of such income is eligible for deduction, the object of the provision being furtherance of the cooperative movement as a whole.*

*15.8. Since the words 'bank' and banking company' are not defined in the NABARD Act, 1981, the definition in sub-clause (i) of clause (a) of Section 56 of the BR Act, 1949 has to be relied upon. It states that a co-operative society in the context of a cooperative bank is in relation to or as a banking company. Thus, co-operative bank shall be construed as references to a banking company and*



*when the definition of banking company in clause (c) of Section 5 of the BR Act, 1949 is seen, it means any company which transacts the business of banking in India and as already noted banking business is defined in clause (b) of Section 5 to mean the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise. Thus, it is only when a co-operative society is conducting banking business in terms of the definition referred to above that it becomes a co-operative bank and in such a case, Section 22 of the BR Act, 1949 would apply wherein it would require a licence to run a co-operative bank. In other words, if a co-operative society is not conducting the business of banking as defined in clause (b) of Section 5 of the BR Act, 1949, it would not be a co-operative bank and not so within the meanings of a state cooperative bank, a central co-operative bank or a primary co-operative bank in terms of Section 56(c)(i)(cci). Whereas a co-operative bank is in the nature of a banking company which transacts the business of banking as defined in clause (b) of Section 5 of the BR Act, 1949. But if a co-operative society does not transact business of banking as defined in clause (b) of Section 5 of the BR Act, 1949, it would not be a co-operative bank. Then the definitions under the NABARD Act, 1981 would not apply. If a co-operative society is not a co-operative bank, then such an entity would be entitled to deduction but on the other hand, if it is a co-operative bank within the meaning of Section 56 of BR Act, 1949 read with the provisions of NABARD Act, 1981 then it would Not be entitled to the benefit of deduction under sub-section (4) or Section 80P of the Act."*

*6.3.2 Based on above such principle analyzed by Hon'ble Supreme Court and respectfully following the view taken by the Hon'ble Karnataka High Court in the case of PCIT & Anr. Vs. Totagars Cooperative Sale Society reported in (2017) 392 ITR 74 and Hon'ble Gujarat High Court in the case of State Bank Of India Vs. CIT reported in (2016) 389 ITR 578, I hold that, the interest income earned by a cooperative society on its investments held with a Co-operative banks/Nationalised banks would not be eligible for claim of deduction under Sec.80P(2)(d) of the Act.*

*6.3.3 Further, the appellant is also not entitled for deduction u/s 80P(2)(a)(i) of the Act in view of judgement of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. (322 ITR 283) (SC), wherein held as follows:*

*"The words "the whole of the amount of profits and gains of business" in section 80P(2) of the Incometax Act, 1961, emphasise*



*that the income in respect of which deduction is sought by a co-operative society must constitute the operational income and not the other income which accrues to the society.*

*The interest income arising to a co-operative society carrying on the business of providing credit facilities to its members or marketing of agricultural produce of its members, on the surplus, which is not required immediately for business purposes from investment in short term deposits and securities, has to be taxed as income from other sources under section 56 of the Income-tax Act, 1961. Such interest cannot be said to be attributable to the activities of the society, viz., carrying on the business of providing credit facilities to its members or marketing of agricultural produce of its members. Interest income of such society from amounts retained by it cannot be said to be attributable either to the activity mentioned in section 80P(2)(a)(i) or section 80P(2)(a) (iii) of the Act."*

*6.3.4 Since the interest is earned by the appellant from Co-operative bank/ Scheduled Bank, the same has to be considered under the head 'income from other sources' and such interest income earned from Co-operative banks/ Scheduled Bank is not eligible for deduction under section 80P(2)(d)/ 80P(2)(a)(i). Thus, the AO is justified in disallowing the deduction of Rs 2,86,069/- claimed u/s 80P of the Act. Accordingly, the appeal is 'Dismissed.'*

4. We have carefully perused the orders passed by the lower authorities, material on record and the arguments made by appellant and revenue. The issue before us is about the eligibility of the assessee co-operative credit society about the deduction u/s. 80P(2)(a)(i) of the Act or u/s. 80P(2)(d) of the Act. As regards the deduction claimed by the assessee u/s. 80P(2)(a)(i) of the Act, the fact is that the assessee is a AOP running a co-operative society engaged in the business of accepting and lending money to the members of the society and during the year under consideration, it has earned interest income to the tune of Rs. 7,19,303/- from investments made in various co-operative banks and the resultant



income of the assessee is not in the nature of any business income. The issue which arises for consideration in the present matter pertains to the scope and applicability of deductions available to a co-operative society under Section 80P(2)(a)(i) and Section 80P(2)(d) of the Income-tax Act, 1961, and the distinction that exists therein.

4.1 Section 80P of the Act confers certain tax benefits upon co-operative societies, recognising their role in promoting mutual assistance and cooperative development. The relevant clauses under consideration are as follows:

- **Section 80P(2)(a)(i)** provides for deduction in respect of income attributable to a co-operative society engaged in the business of banking or providing credit facilities to its members.
- **Section 80P(2)(d)**, on the other hand, provides deduction of income by way of interest or dividend earned from investments made with **another co-operative society**.

4.2 A careful reading of the statutory language, in light of settled judicial pronouncements, reveals that these provisions operate in distinct spheres. Section 80P(2)(a)(i) is **activity-based**, granting deduction where the income arises from the active conduct of the business of banking or lending to members. Section 80P(2)(d) is **source-based**, and confers deduction where the income is passively earned by way of **interest or dividends** from investments with



other co-operative societies. The Hon'ble Supreme Court, in **Mavilayi Service Co-operative Bank Ltd. v. CIT [(2021) 431 ITR 1 (SC)]**, held that the eligibility for deduction under Section 80P(2)(a)(i) does not depend on registration under the Banking Regulation Act. What is required is that the co-operative society is in fact engaged in providing credit facilities to its members. The Court overruled the contrary view expressed in earlier judgments of High Courts that placed emphasis on the nomenclature of "co-operative bank". The distinction was further clarified in **Totgars Co-operative Sale Society Ltd. v. ITO [(2010) 322 ITR 283 (SC)]**, where the Hon'ble Court held that interest income arising from surplus funds deposited in banks does not qualify for deduction under Section 80P(2)(a)(i), as it is not income derived from the business of banking or credit facilities. However, the door was left open for deduction under Section 80P(2)(d), provided such income arises from investments with a co-operative society.

4.3 The decision of the Hon'ble Apex Court in the case of Totgars Co-operative Sale Society Ltd. (322 ITR 283) (SC) squarely applies in so far as the deduction u/s. 80P(2)(a)(i) is claimed by the assessee in the present case. In the result, ground no. 1 raised by the assessee is dismissed.

4.4 Apropos, the deduction claimed u/s. 80P(2)(d) of the Act, it is observed that the assessee is eligible for deduction of interest



income taxed under the head “Income from other sources” if the same is earned from a co-operative society. The Hon’ble High Courts have consistently held, following the aforesaid precedent, that **interest income received from co-operative banks (if they are co-operative societies)** is deductible under Section 80P(2)(d). Reference may be made to the decision of the Hon’ble Karnataka High Court in **PCIT v. Totagars Co-operative Sale Society [(2017) 395 ITR 611 (Kar)]**, wherein such interest was held to be eligible for deduction under clause (d).

4.5 The assessee contends that the interest income in question has been earned from investments with co-operative banks, which are co-operative societies for the purposes of the Act. This contention, if substantiated, would entitle the assessee to deduction under Section 80P(2)(d). However, this is a question of fact requiring verification. Accordingly, we consider it appropriate to remand the matter to the file of the Assessing Officer for the limited purpose of verifying whether the entities from which the assessee has earned interest income are, in fact, co-operative societies within the meaning of the Act. Upon such verification, the Assessing Officer shall adjudicate the claim for deduction under Section 80P(2)(d) in accordance with law and after affording due opportunity of hearing to the assessee. The ground no.2 of the assessee is accordingly allowed for statistical purposes.



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

**Order pronounced in the open Court on 30/06/2025.**

Sd/-  
**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Sd/-  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 30/06/2025  
Dragon Legal/Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**