आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
Ms.SUCHITRA R. KAMBLE, JUDICIAL MEMBER

ITA No.415, 416 and 417/Ahd/2025
Assessment Year : 2017-18, 2018-19 and 2022-23

Baroda District Cooperative Milk Producers Union Ltd. 1, Baroda Diary Makarpura Road Vadodara 390 009 PAN : AAAAB 4510 B	Vs	Asstt.CIT, Cir.1(1)(1) Baroda.
(Applicant)		**(Responent)**

Assessee by	:	Shri Manish J. Shah, and Shri Rushin Patel, ARs.
Revenue by	:	Shri B.P. Srivastava, Sr.DR

सुनवाई की तारीख/**Date of Hearing : 13/05/2025**
घोषणा की तारीख /**Date of Pronouncement: 08/07/2025**

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

All the three appeals are filed by the same assessee against separate orders of the Ld.Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi for the above three assessment years.

Since the issue involved in all these appeals , it was common ground, was identical, all the appeals were therefore, taken up together for adjudication and are being disposed of by this common order.

2. We shall first take up the assessee's appeal in ITA No.415/Ahd/2025 for the Asstt.Year 2017-18 for adjudication. The grounds raised read as under:

> *1. The learned A.O. has erred on the facts of the case as well as in law, by disallowing the claim of Rs.1,39,41,995/- in respect of deduction claimed under section 80P(2)(d) of the IT Act, 1961. The learned A.O. failed to appreciate the facts that the said disallowance is uncalled and unwanted. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.1,39,41,995/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by CIT(A)-5 Vadodara for A.Y. 2011-12 to 2013-14 and further Hon'ble ITAT Ahmedabad dismissed the appeals of Revenue on this issue. Thus, such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.*
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> *2. The learned A.O. has erred on the facts of the case as well as in law, by disallowing the claim of Rs.2,99,698/- in respect of deduction claimed u/s 80P(2)(a)(iv) of the IT Act, 1961. The learned A.O. failed to appreciate the facts that the said disallowance is uncalled and unwanted. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.2,99,698/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by Hon'ble ITAT Ahmedabad for A.Y. 2011-12 to 2013-14 on this issue. Such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.*
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> *3. The learned A.O. erred on law and on facts in invoking the provisions of section 14 A of the act and also erred in applying the rule 8 D and thereby disallowing Rs.6,33,282/- . The learned A.O. has failed to appreciate the facts that investments to earn the exempt income have been made out of appellant's own sufficient funds and have not been made out of the borrowed funds. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.6,33,282/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by Hon'ble ITAT Ahmedabad for A.Y. 2011-12 to 2013-14 on this issue. Such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.*
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> *4. The Appellant requests leave to add to alter amend substitute or delete all or any of the grounds of appeal at or before the time of hearing.*

3. Brief facts relating to the case are that the assessee is a cooperative society engaged in the business of milk-processing and production of milk products, as also, in the business of cattle feed sale. The assessee was found to have claimed deduction under section 80P of the Act on account of various incomes earned, out of

which, the following deductions claimed by the assessee of the income earned by the assessee, cooperative society, were found to be not in accordance with law, and disallowance was made with respect to the same, viz

i. interest and dividend income earned from the investments made in other cooperative societies, deduction claimed under section 80P(2)(d) of the Act amounting to Rs.70,19,145/- and Rs.69,22,850/- respectively.

ii. profit on sale of seeds, deduction claimed under section 80P(2)(iv) of the Act amounting to Rs.2,99,698/-.

iii. Besides the above, the disallowance of expenditure by invoking the provisions of section 14A of the Act read with rule 8D of the IT Rules, 1962 was also made amounting to Rs.6,33,282/-.

All the disallowances so made were challenged before the ld.CIT(A), who confirmed the order of the AO. Aggrieved by which, the assessee has come up in appeal before us.

5. Ground no.1 raised by the assessee relates to denial of deduction of interest and dividend income claimed by the assessee in terms of provisions of section 80P(2)(d) of the Act amounting to Rs.1,39,41,995. The ground so raised is reproduced above.

6. A perusal of the order of the authorities below reveals that the AO noted the assessee to have claimed deduction of gross amount of dividend and interest income earned from investment made in cooperative society as per the provisions of section 80P(2)(d) of the Act, and the AO held that the assessee was eligible to claim deduction of only the net income earned by way of dividend and interest income. Noting that the assessee had incurred interest expenses on deposits

taken from cooperative societies amounting to Rs.1,49,78,840/-, which he found to be much more than the amount of income earned by way of investments in the form of interest and dividend amounting in all to Rs.1,39,41,995/-,he disallowed the entire deduction claimed by the assessee, by netting of the interest expenses against the said income. The ld.CIT(A) confirmed the order of the AO.

7. The contention of the ld.counsel for the assessee before us, was that the order passed by the ld.CIT(A) was grossly unjustified, since he had ignored the decision of the ITAT in the case of the assessee itself in the preceding years on the identical issue, wherein it was categorically held by the Tribunal that the assessee was entitled to claim deduction under section 80P(2)(d) of the Act on the gross income earned. He drew our attention to the order passed by the ITAT in the case of the assessee for Asst.Year 2011-12 to 2013-14 in ITA No.3080, 3560 to 3561/Ahd/2016 dated 14.5.2018 and pointed out from para-6 of the order that the ITAT followed the decision of the jurisdictional High Court in the case of Surat Vankar Sahakari Sang Ltd. Vs. CIT, in ITA No.93 to 96 of 2008, while holding so. Our attention was drawn to the finding of the ITAT in this regard at para-6 of its order as under:

> *"6. We have heard the rival contentions and perused the material on record carefully. The assessee has claimed deduction u/s. 80P(2)(d) of chapter VI of the act in respect of income by way of interest and dividend on deposits and investments made with other co-operatives societies. The ld. CIT(A) has allowed the claim of the assesse after placing reliance on the decision of Hon'ble Gujarat High court in the case of Surat Vankar Sahakari Sangh Ltd. vs. ACIT in ITA 93 to 96 of 2008. We have perused the above cited decision of the Hon'ble jurisdictional high court wherein it is held that section 80P(2)(d) of the act allows whole deduction of an income by way of interest or dividends derived by the cooperative society from his investment with any other cooperative society. It is immaterial where any interest paid to the co-operative society exceeds the interest received from its investment. The Hon'ble*

High Court has also held that provision of section 80P(2)(d) does not indicate any adjustment to be made as sought by the Revenue. In view of the decision of the Hon'ble Gujarat Court in the case of Surat Vankar Shakari Sangh Ltd. vs. ACIT in ITA No. 93 to 96 of 2008 as elaborated in the findings of the ld. CIT(A), we do not find any infirmity in the decision of the ld. CIT(A), therefore, the appeal of the revenue is dismissed on this issue."

Further it was pointed out that in another case , while the ITAT had originally passed order holding deduction u/s 80P(2) (d) of the Act to be allowed on net income earned, the said finding was rectified allowing the deduction on gross income earned in a Miscellneous Application filed by the assessee finding the mistake to be apparent from record in view of the decision of the jurisdictional High court in this regard. Our attention was drawn to the order of the ITAT in MA 139-141/Ahd/2017 dated 05/10/2020 as under:

"2. In the MA it has been pleaded that these appeals have been decided by the Tribunal on 9.1.2020. The Tribunal has allowed the appeals for statistical purpose and directed the AO to grant deduction under section 80P(2)(d) of the Income Tax Act, 1961 of the interest income earned from co-operative societies. The finding recorded by the Tribunal in Para 7 and 8 read as under:

> *"7. On due consideration of the above facts and circumstances, we are of the view that as far as the issue regarding admissibility of deduction of interest income from scheduled bank under section 80P(2)(a)(i) is concerned this has been settled by the Hon'ble Jurisdictional High Court in the case of State Bank of India (supra), and the assessee is not entitled for such deduction. This proposition was not even disputed by the ld.counsel for the assessee. Only thing which requires to be done is re-determination or quantification of amount which is to be disallowed out of interest income from the scheduled bank. The ld.AO shall work out the net interest income from the deposits with scheduled bank, and thereafter exclude that amount from the computation of deduction claimed under section 80P(2)(a)(i) of the Act. As far as interest income from cooperative bank/society is concerned in view of the decision of co-ordinate Bench, such income will qualify for grant of deduction under section 80P(2)(d) of the Act. The ld.AO shall work out net amount of such interest income, and thereafter grant deduction under section 80(2)(d) of the Act."*

3. The ld.counsel for the assessee contended that the Tribunal has directed the AO to compute net interest income from the cooperative societies, and thereafter grant deduction under section 80P(2)(d) of the Act. This direction is not correct in

view of latest decision of Hon'ble Gujarat High Court. Accordingly, she put reliance upon the following decisions:

1. *Doaba Co-op. Sugar Mills Ltd., 230 ITR 774 (P&H);*
2. *Surat Vankar Sahakari Sangh Ltd., 72 taxmann.com 169;*
3. *Surendrangar District co-op Milk Producers Union Ltd., 179 ITD 690;*
4. *Jaipur Zila Dugdh Utpadak Sahakari Sangh Ltd. ITA Nos.512 & 513/JP/2019;*
5. *Bardoli Vibhag Gram Vikas Co-op. credit Society Ltd., 189 ITD 601;*

4. According to the ld.counsel for the assessee expression "whole of such income" has been employed in section 80P(2)(d), and therefore, for the purpose of computing deduction admissible under section 80P(2)(d) of the Act, income which is to be excluded is the gross income of interest mentioned in section 80P(2)(d) of the Act. Thus, the AO has to compute gross interest income which is to be excluded from the income of the assessee under section 80P(2)(d) of the Act.

5. On the other hand, the ld.DR contended that the Tribunal has examined the issue elaborately, and there is no apparent error.

6. We have duly considered rival contentions and gone through the record. The power of rectification under section 254(2) of the Income Tax Act can be exercised only when the mistake, which is sought to be rectified, is an obvious patent mistake, which is apparent from the record and not a mistake, which is required to be established by arguments and long drawn process of reasoning on points, on which there may conceivably be two opinions. The Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd., (supra) has considered an identical issue. One of the questions formulated by the Hon'ble Court in Tax Appeal No.93 to 96 of 2008 read as under:

> *"Whether assessee-cooperative society was entitled under section 80P(2)(d) of the entire interest of Rs.9,01,062/- received by it from the co-operative bank ?*

In paragraph-3 the Hon'ble Court has noticed the facts as under:

> *"3. In all the four appeals, the common issue is grant of net deduction u/s 80P(2)(d) of the Act, in respect of interest and dividend received by the assessee from co-operative societies i.e. bank in this case. The Assessing Officer allowed deduction u/s 80P(2)(d) to the extent of net interest instead of gross interest as claimed by the assessee and disallowed the excess claim of deduction in this regard for all the years under consideration. The amount disallowed by the Assessing Officer and deduction granted by the Assessing Officer is tabularized and recorded as under":*

7. Hon'ble Court thereafter put reliance upon the decision of Hon'ble Punjab & Haryana High Court's decision and held that gross interest income is to be granted as deduction under section 80P(2)(d) of the Act. The finding recorded by the Hon'ble Court reads as under:

***"8.1** Similarly, in the case of Doaba Co-operative Sugar Mills Ltd (supra), the Punjab & Haryana High Court has held as under:*

> *'5. The contention of Mr. Gupta, learned counsel appearing for the Revenue, is that the Tribunal was wrong in allowing deduction under Section 80P(2) (d) of the Act because it is not established that the assessee had derived the interest by investing all the amount of surplus funds. It is further contended by Mr. Gupta that the assessee has paid interest to Jalandhar Central Co-operative Bank and has also received interest from the said co-operative bank, thereby showing that the assessee has on the aggregate paid interest to the bank and, therefore, no deduction under Section 80P(2)(d) can be allowed. To appreciate this argument, we have to look to the provisions of Section 80P(2)(d) of the Act, For facility of reference, it is reproduced as under :*
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> > *"80P. (2)(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."*
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> *6. So far as the principle of interpretation applicable to a taxing statute is concerned, we can do no better than to quote the by-now classic words of Rowlatt J., in Cape Brandy Syndicate v. IRC [1921] 1 KB 64, 71 :*
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> *"...In a taxing Act, one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used,"*
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> *7. The principle laid down by Rowlatt J., has also been time and again approved and applied by the Supreme Court in different cases including the one, Hansraj Gordhandas v. H. H. Dave, Assistant Collector of Central Excise and Customs, AIR 1970 SC 755, 759.*
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> *8. Section 80P(2)(d) of the Act allows whole deduction of an income by way of interest or dividends derived by the co-operative society from its investment with any other co-operative society. This provision does not make any distinction in regard to source of the investment because this Section envisages deduction in respect of any income derived by the co-operative society from any investment with a co-operative society. It is immaterial whether any interest paid to the co- operative society exceeds the interest received from the bank on investments. The Revenue is not required to look to the nature of the investment whether it was from its surplus funds or otherwise. The Act does not speak of any adjustment as sought to be made out by learned counsel for the Revenue. The provision does not indicate any such adjustment in regard to interest derived from the co-operative society from its investment in any other co-operative society. Therefore, we do not agree with the argument advanced by learned counsel for the Revenue. In our opinion, the learned Tribunal was right in law in allowing deduction under Section 80P(2)(d) of the Income- tax Act, 1961. in respect of interest of RS. 4,00,919 on account of interest received from Nawanshaln Central Co-operative Bank without adjusting the interest paid to the hank. Therefore, the reference is answered against the Revenue in the affirmative and in favour of the assessee.'*

***8.2** Moreover, the Bombay High Court in the case of Bai Bhuriben Lallubhai (supra) has held that the purpose for which the assessee borrowed money had no connection whether direct or indirect with the income which she earned from the fixed deposit and that she was not entitled to the deduction claimed under Section 12(2). The High Court held that if an assessee had no option except to incur an expenditure in order to make the earning of an income possible, then undoubtedly the exercise of that option is compulsory and any expenditure incurred by reason of the exercise of that option would come within the ambit of section 12(2) of the Indian Income-Tax Act but where the option has no connection with the carrying on of the business or the earning of the income and the option depends upon personal considerations or upon motives of the assessee, that expenditure cannot possibly come within the ambit of Section 12(2). In the present case, the loan was taken for business purpose more particularly purchase of yarn and not for fixed deposits.*

> ***9.*** *In view of the above, the questions raised in the present appeals are answered in favour of the assessee and against the revenue. The order passed by the Tribunal is accordingly quashed and set aside."*

> *8. We find that in view of the decision of Hon'ble jurisdictional High Court, the Tribunal has committed an error which is apparent one by directing the AO to compute only net interest income for the purpose of section 80P(2)(d) of the Act. The gross income is to be considered for deduction under section 80P(2)(d) of the Act. In view of the above decision of the Hon'ble High Court, we expunge the words "net interest" used by us in the finding extracted (supra) and in its place expression "gross interest income" is to be read in the order of the Tribunal. In other words, the ld.AO would grant deduction under section 80P(2)(d) of the Act of whole interest income i.e. gross interest income. With the above observations and finding, these MAs. are allowed and impugned order of the Tribunal is revised to that extent.*

8. The ld.DR, on the other hand, contended that the ld.CIT(A) had held the assessee to be entitled to claim of deduction only of the net income, following the judgment of the Hon'ble Apex Court in the case of Sabarkanta Zilla Kharid Veehan Sangh Ltd.Vs. CIT. Our attention was drawn to the finding of the ld.CIT(A) in this regard at para 5.7 and 5.8 of the order as under:

> *"5.7 In Sabarkanta Zilla Khariod Veehan Sangh Ltd Vs. CIT 203 ITR 1027 (1993), the appellant's appeals in ITR Nos. 100 of 1974, 24 of 1974 and 139 of 1974 were dismissed by the Hon'ble High Court, Gujarat(The jurisdictional High Court with respect to the appellant in the present appeal)through common judgment dated 03.09.1975. The operative paragraph of the said judgment is being excerpted hereunder:*
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> > *In the light of the above discussion, we answer question No.(1) as reframed by is in Income-tax Reference No. 100 of 1974, in the affirmative and against the assessee. We answer question No.(2) in the negative and against the assessee. In Income-tax Reference No. 24 of 1974, we answer the question No.(1) as reframed by us in the affirmative and against the assessee; question No.(2) in the negative and against the assessee. In Income-tax Reference No. 139 of 1974, we answer the question referred to us in the affirmative, that is, in favour of the revenue and against the assessee. The assessee will pay the costs of the reference in each of these three cases to the Commissioner of Income-tax.*
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> *5.8 The aforesaid judgment of Hon'ble High Court, Gujarat was challenged by the appellant M/s Sabarkanta Zilla Khariod Veehan Sangh Ltd before the Hon'ble Supreme Court in CIVIL APPEALS NOS. 793-95(NT) OF 1977 [Sabarkantha Zilla Kharid V. Sangh Ltd. vs Commissioner of Income-Tax. The Civil Appeals, were dismissed by the Hon'ble Supreme Court through judgment dated 05.08.1993 [reported in (1993)4SCC102], making therein the following observations:*

> *"11. Thus, when Section 66 of the I.T. Act. requires the computation of the total income of every person to be done by including all income on which no income-tax is payable under Chapter VII, the income on which no income-tax is payable by a co-operative society under Section 81(i)(d) falling in Chapter VII. has to be necessarily included in its total income. The above Section 110 is then attracted because of the very words of its opening clause. Hence, when the assesses-co-operative society's income is included in its total income, it becomes entitled to a deductions from the amount of income-tax chargeable on its total income. That means, the co-operative society concerned becomes entitled to deduction or exemption from income-tax payable by it only on. its net amount of profits and gains, i.e., on income of its business otherwise computable in accordance with the provisions of the I.T. Act for the purpose of charging income-tax thereon and which is included in its total income, and not on the amount of its gross profits and gains of business. 12. Thus, the said provisions of the IT. Act, in our view, clearly envisage a legislative scheme of giving income-tax exemption to a co-operative society carrying on its business contemplated in Section 81(i)(d) of the I.T. Act, not with respect to the amount of gross profits and gains of its business but only with respect to the amount of net profits and gains, i.e., income of its business otherwise computable according to the provisions of the I.T. Act for the purpose of charging income-tax as a part of the total income of the assessee, as required under Section 110 of the I.T. Act."*

9. He pointed out from para 5.10 of the CIT(A)'s order that he had categorically held that in view of the settled proposition of law laid down by the Hon'ble jurisdictional High Court and Hon'ble Apex Court, the order passed by the ITAT in the case of assessee itself is not assistance to the assessee.

10. We have heard contentions of both the parties.

11. The issue relates to the finding of the authorities below that the assessee is entitled to deduction of income from dividend and interest earned by way of investment made in cooperative societies, in terms of section 80P(2)(d) of the Act, on net basis. Undisputedly, the ITAT in the case of the assessee itself, in the preceding year has categorically held the entitlement of claim of deduction under section 80P(2)(d) of the Act on gross basis and the ITAT has placed reliance while holding so on the decision of the jurisdictional High Court in the case of Surat Vankar Sahakari Sang Ltd. Vs. CIT(supra). Having

said so, the ld.CIT(A) has not followed the decision of the ITAT in the case of assessee itself stating that the Hon'ble Apex Court in the case of Sabarkanta Zilla Kharid Veehan Sangh Ltd.Vs. CIT (supra) has held otherwise.

12. We have gone through the decision of the Hon'ble Apex Court in the case of Sabarkanta Zilla Kharid Veehan Sangh Ltd.Vs. CIT (supra), and we find that the same is distinguishable on facts. In the said case, the Hon'ble Apex Court was seized with the issue of claim of deduction of profits from business carried out by the cooperative society under section 80P of the Act, and the issue was, whether the assessee is entitled to deduction on the gross profits or the net profits, to which, the Hon'ble Apex Court held that entitlement to deduction of profits from business was only on the net profit and not on the gross profit of the business. However, in the facts of the present case, the issue is not in relation to the claim of deduction under section 80P on the profits of business carried out by the assessee, on the contrary, the claim of deduction is with regard to the interest and dividend earned by the assessee from investments made in other cooperative societies in terms of provisions of section 80P(2)(d) of the Act, and in this regard, the ITAT in the preceding year has noted that the jurisdictional High Court in the case of Surat Vankar Sahakari Sang Ltd. Vs. CIT has held categorically that entitlement to deduction under section 80P(2)(d) of the Act is on the gross amount and not on net amount.

13. In view of the above, we hold that the ld.CIT(A) has wrongly confirmed the order of the AO, holding that the assessee's claim of deduction under section 80P(2)(d) of the Act to be on net basis. The issue is squarely covered in favour of the assessee by the decision of the ITAT in the case of the assessee itself in the preceding year. We

accordingly direct the AO to allow the assessee to claim of deduction under section 80P(2)(d) of the Act amounting to Rs.1,39,41,995/-.

Ground No.1 of the appeal of the assessee is allowed.

14. Ground no.2 raised by the assessee relates to deduction claimed by the assessee on profit earned from sale of seeds.

15. The assessee had claimed deduction on account of the same under section 80P(iv) of the Act amounting to Rs.2,99,698/-, which was denied by the AO, and which denial of claim was confirmed by the ld.CIT(A). Accordingly, the assessee has raised the above ground no.2 before us, challenging the order of the ld.CIT(A).

16. The orders of the authorities below reveal that the said claim of profits from sale of seeds was denied by the AO on the same premise as applied for interest and dividend claimed as deduction under section 80P of the Act, by holding that that the entitlement to claim of deduction of profits/gains from sale of seeds is only on the net profit and not gross profit, and since the assessee was noted to have not claimed any expenses against the gross profits earned from the sale of seeds nor the assessee furnished any details of agricultural activities for growing the seeds, therefore, the entire claim of deduction of Rs.2,99,698/- under section 80P(iv) of the Act was disallowed.

17. The contention of the ld.counsel for the assessee before us that this issue had arisen in the case of the assessee in the preceding year wherein the ITAT held that indirect expenses at the rate of 20% of the GP to be allocated and deduction for claim of profits be restricted accordingly. The ld.counsel for the assessee pointed out that this issue was dealt with in the case of the assessee by the ITAT in its

order passed in ITA No.3283 and 3282/Ahd/2016 dated 30.4.2019 at para 3 to 5 of its order as under:

> *"3. The assessee engaged in the business of milk processing, production of milk products and cattle feed, filed its return of income for A.Y. 2013-14 on 27.09.2013 declaring total income at Rs.4,81,36,780/-. Upon scrutiny notice u/s 143(2) dated 04.09.2014 was served upon the assessee. It appears that the total turnover shown by the assessee was of Rs.685,45,67,034/-. The gross receipt under the head "other sources" was shown at Rs.7,90,09,413/-, net profit whereof was of Rs.3,98,33,142/-. After certain adjustments and claim of deduction u/s 80P of the Act at Rs.88,15,734/-, the total return was at Rs.4,81,36,780/-. During the course of assessment proceeding, the Learned AO observed that the assessee has declared profit of Rs.6,46,875/- on sale of seeds and the assessee claimed whole of the said amount as deduction u/s 80P(2)(iv) of the Act. The assessee had not debited indirect expenses from the same and therefore relying on the judgment of Gandevi Taluka Khedut Sahakari Sangh Ltd.-vs-CIT reported in 76 Taxman 36 Guj (1994) on the ratio that deduction u/s 80(P)(2)(a)(iv) was to be allowed on net profit and gain and not with respect to gross profit and gains. The Learned AO disallowed the whole of the claim of deduction of Rs.6,46,875/- u/s 80(P)(iv) of the Act. In appeal, assessee was given part relief whereby and whereunder the Learned Assessing Officer was directed to allocate indirect expenses at 40% of gross profit and to allow deduction u/s 80(P)(2)(iv) of the Act on the balance amount.*
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> *4. At the time of hearing of the instant appeal the Learned Advocate appearing for the assessee submitted before us that no separate infrastructure or expenditure is required to be incurred by the assessee for selling the seeds since this is a trading activity and the assessee is only acting as an agent. The seeds are procured from the seeds growing agencies and sold to the members of the society, the member are themselves lifting the seeds from the dairy premises. It was further argued that the Learned authorities below failed to appreciate the facts in its proper prospective and thus disallowed the sum of Rs.6,46,875/- only on the basis of assumption and estimate without their being any factual finding of the fact that the appellant has incurred any such expenditure. Factually, the seeds are supplied to societies from the centers where no additional expenditure except transportation allocation along with milk vehicles is incurred which cannot be even more than 5 to 10 % of its value. He, therefore, prays for deletion of the excessive unreasonable disallowance of Rs.6,46,875/- in respect of sale of seeds claimed u/s 80(P)(2)(iv) of the Act. On the contrary the Learned DR relied upon the order passed by the authorities below.*

5. We have heard the respective parties, we have also perused the relevant materials available on record. It appear from the records that the assessee has not attributed any direct or indirect expenses to its cotton seeds sale activities. However, the Assessing Officer, estimated the indirect expenses attributable to such activity and disallowed the entire claim of deduction under Section 80(P)(2)(iv) in spite of furnishing trading account on the seed selling unit by the assessee. It further appears that the Assessing Officer estimated such expenses at 40% of the gross profit for A.Y. 2011-12 in assessee's own case which was further upheld by the Learned CIT(A) and following the decision of the predecessor, the Learned CIT(A) directed the Assessing Officer to allocate indirect expenses at 40% of gross profit and to allow deduction u/s 80(P)(2)(iv) of the Act on the balance amount. It is a fact that additional expenditure except transportation allocation along with milk vehicles no expenditure seems to be incurred by the assessee as it appears from the records before us. If that be so then the allocation of indirect expenses at 40% of gross profit does not seem reasonable taking into consideration the entire aspect of the matter. We, therefore, restrict the said allocation of indirect expenses at 20% of the gross profit. The Learned AO is, therefore, directed to allow deduction u/s 80(P)(2)(iv) of the Act on the balance amount. Hence assessee's this ground of appeal is partly allowed."

18. He contended that the ld.CIT(A) was grossly unjustified, therefore, in confirming the order of the AO confirming the entire claim of deduction of profits from sale of seeds by the assessee, and not following the binding decision of the ITAT in the case of the assessee itself in the preceding year.

19. The ld.DR, though, vehemently supported the order of the ld.CIT(A), was unable to dislodge the contention of the ld.counsel for the assessee that identical issue had been adjudicated by the ITAT in the case of the assessee itself in the preceding year, as pointed by the ld.cousnel for the assessee.

20. In view of the above, in the light of the uncontroverted fact that the issue of claim of deduction of profits from sale of seeds by the assessee under section 80P(2)(iv) of the Act, has already been decided by the ITAT in the case of the assessee itself, in the preceding years, holding the attribution of indirect expenses to the extent of 20% of the

GP earned by the assessee, and reduction of claim of deduction under section 80P(2)(iv) accordingly, we hold that the issue is squarely covered by the decision of the ITAT in the case of the assessee itself, and we direct the AO to allow the assesses claim of deduction under section 80P(2)(iv) of the Act, in accordance with the directions by the ITAT in the case of assessee in A.Y 12-13 & 13-14.

Ground No.2 raised by the assessee is partly allowed in above terms.

21. Ground No.3 relates to disallowance of expenses by invoking the provisions of section 14A of the Act read with Rule 8D of the IT Rules of Rs.6,33,282/-.

22. The orders of the authorities below reveal that the AO, noting the assessee to have made huge investments and further finding that no expenses incurred in relation to earning of income from the said investments, was made by the assessee, invoked the provisions of section 14A of the Act, and applying Rule 8D of the IT Rules, 1962 worked out the disallowance to be made under the said section to the extent of Rs.6,33,282/-.

23. The contention of the ld.counsel for the assessee before us was that this issue had also been adjudicated by the ITAT in the case of the assessee in the preceding year, deleting the entire disallowance of expenses under section 14A of the Act, holding that the provisions of section 14A of the Act, are invocable only for determining and disallowing expenses incurred for the purpose of earning exempt income; that the said section does not applicable for disallowing expenses incurred for earning incomes which are claimed as deductible under Chapter VIA of the Act. Our attention was drawn to the order of the ITAT in the case of the assessee in ITA No.3283 and

3282/Ahd/2016 dated 30.4.2019, page no.12 wherein the ITAT after referring to the judgment passed by the jurisdictional High Court in the case of Banaskantha Dist. Co-op. Milk Producers' Union Ltd. (supra) and the decision of Hon'ble Delhi High Court in the case of CIT Vs. Kribhco, 349 ITR 618 it was held as under:

> *"…Since section 14A is applicable for the expenditure incurred to earned exempt income and not to the income deductible under chapter VIA of the Act respectfully relying upon the said judgment, we find no justification in disallowing the claim of deduction of Rs.7,98,033/- u/s 14A of the Act r.w.r. 8D of the Rule in the case of the assessee before us. In that view of the matter such disallowance is deleted. Hence assessee's ground of appeal is allowed."*

24. The ld.DR, though vehemently supported the order of the ld.CIT(A), was unable to dislodge the contention of the ld.counsel for the assessee that identical issue had been adjudicated by the ITAT in the case of the assessee itself (supra) in the preceding year, as pointed by the ld.counsel for the assessee.

25. In view of the above, since the issue stands covered in favour of the assessee by the order of the ITAT in the case of the assessee itself in the preceding year, we are unable to confirm the order of the ld.CIT(A) upholding the disallowance of expenses u/s 14A of the Act. The disallowance so made of Rs.6,33,282/-, is therefore, directed to be deleted.

Ground of appeal No.3 raised by the assessee is allowed.

26. In the result, the appeal of the assessee for Asst.Year 2017-18 is partly allowed.

27. We shall now take up the assessee's appeal in ITA No.416/Ahd/2025 for Asst.Year 2018-19.

28. The grounds raised are as under:

"1. The learned A.O. has erred on the facts of the case as well as in law, by disallowing the claim of Rs.1,26,90,845/- in respect of deduction claimed under section 80P(2)(d) of the IT Act, 1961. The learned A.O. failed to appreciate the facts that the said disallowance is uncalled and unwanted. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.1,26,90,845/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by CIT(A)-5 Vadodara for A.Y. 2011-12 to 2013-14 and further Hon'ble ITAT Ahmedabad dismissed the appeals of Revenue on this issue. Thus, such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.

2. The learned A.O. has erred on the facts of the case as well as in law, by disallowing the claim of Rs.1,17,420/- in respect of deduction claimed u/s 80P(2)(a)(iv) of the IT Act, 1961. The learned A.O. failed to appreciate the facts that the said disallowance is uncalled and unwanted. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.1,17,420/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by Hon'ble ITAT Ahmedabad for A.Y. 2011-12 to 2013-14 on this issue. Such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.

3. The learned A.O. erred on law and on facts in invoking the provisions of section 14 A of the act and also erred in applying the rule 8 D and thereby disallowing Rs.20,81,984/-. The learned A.O. has failed to appreciate the facts that investments to earn the exempt income have been made out of appellant's own sufficient funds and have not been made out of the borrowed funds. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.20,81,984/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by Hon'ble ITAT Ahmedabad for A.Y. 2011-12 to 2013-14 on this issue. Such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.

4. The Appellant requests leave to add to alter amend substitute or delete all or any of the grounds of appeal at or before the time of hearing."

29. We also take up the appeal of the assessee for Asst.Year 2022-23 in ITA No.417/Ahd/2025. The grounds raised are as under:

"1) The learned A.O. has erred on the facts of the case as well as in law, by disallowing the claim of Rs.68,33,529/- in respect of deduction claimed under section 80P(2)(d) of the IT Act, 1961. The learned A.O.

failed to appreciate the facts that the said disallowance is uncalled and unwanted. Further, CIT (Appeals) has erred in dismissing the appeal by upholding the addition made by learned A.O. amounting to Rs.68,33,529/- and by not considering the appellant's submission where it was clearly mentioned the appellant's own favorable case-law held by CIT(A)-5 Vadodara for A.Y. 2011-12 to 2013-14 and further Hon'ble ITAT Ahmedabad dismissed the appeals of Revenue on this issue. Thus, such addition is unjustified both in law and in fact and it is respectfully requested to be deleted.

2) The Ld. A.O. has erred in law and in facts in initiating the penalty u/s 270A of the I.T. Act on addition made on account of disallowance of deduction claimed u/s 80P for interest income earned from other co-operative society / bank.

3) The Appellant requests leave to add to alter amend substitute or delete all or any of the grounds of appeal at or before the time of hearing."

30. A perusal of the grounds raised in the above two appeals shows that they are identical to those raised in ITA No. 415/Ahd/2025 for the Assessment Year 2017–18, except for the difference in the quantum of the amounts involved. We have already adjudicated that appeal partly in favour of the assessee, for the reasons and justifications set out in the foregoing paragraphs. Accordingly, following the same reasoning, we decide the present two appeals in a similar manner and allow the grounds raised therein.

31. In the result, the appeals of the assessee for Asst.Year 2017-18 and 2018-19 are partly allowed, while the appeal of the assessee for Asst.Year 2022-23 is allowed.

Order pronounced in the Court on 8th July, 2025 at Ahmedabad.

Sd/-	**Sd/-**
(SUCHITRA R. KAMBLE)	**(ANNAPURNA GUPTA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Ahmedabad,dated 08/07/2025