

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.5830/Del/2024
Assessment Year: 2017-18

M/s. Co-operative Cane Development Union Pvt. Ltd., Modi Nagar, Uttar Pradesh	Vs.	Income Tax Officer, Ward-2(1)(2), Ghaziabad
PAN: AAJCO168M		
(Appellant)		(Respondent)

Assessee by	Sh. Ibad Mushtaq, Adv.
Department by	Sh. Rajesh Kumar Dhanesta, Sr. DR

Date of hearing	01.07.2025
Date of pronouncement	18.07.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2017-18, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1069776441(1), dated 18.10.2024 involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

Heard both the parties at length. Case file perused.

2. It emerges during the course of hearing that the learned lower authorities have refused section 80P(2) deduction to the assessee on the ground that the corresponding interest income in fact had been derived from loan to members and from saving banks and FDRs in commercial banks involving varying sums.

3. We have given our thoughtful consideration to the assessee's and Revenue's vehement contentions against and in support of the impugned section 80P disallowance/addition. The Revenue quotes case law Totgars Co-operative Sale Society Ltd. Vs. ITO, Karnataka [2010] 188 Taxman 282 (SC) that such interest incomes could not be held to have been derived from the regular business activity carried out by the assessee-society, and, therefore, the impugned disallowance deserves to be upheld.

4. The assessee, on the other hand, quotes this tribunal's decision (2024) 164 taxmann.com 382, ITO Vs. Shri Bhairavnath Multistate Cooperative Credit Society Ltd. (Pune Trib.); distinguishing the above case law, as follows:

"5. We heard the rival submissions and perused the material on record. We find this issue is no more res integra by virtue of catena of decisions passed by the Coordinate Benches of this Tribunal. In the present case, we find that admittedly the interest income was earned from the investments out of surplus funds made with cooperative

banks/societies, the cooperative bank is also a specie of cooperative society, therefore, the interest income earned by the cooperative society from the cooperative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. Such interest also qualifies for exemption u/s.80P(2)(a)(i) as held by the Co-ordinate Bench of Pune Tribunal in the case of Nashik Road Nagari Sahkari Patsanstha Limited Vs. ITO in ITA No.1700/PUN/2017 wherein the Tribunal held as under :-

"9. We heard the rival submissions and perused the material on record. Admittedly, the appellant is a Cooperative society formed under the provisions of Maharashtra Cooperative Societies Act, 1960 with the objective of accepting deposits and lending money to its members. The money which is not immediately required for the purpose of lending to the members is deposited with Bank of Baroda in the form of Fixed Deposit. The question is whether the interest so earned qualifies for exemption u/s. 80P(2)(a)(i) of the Act. The AO as well as the CIT(A) were of the opinion that the interest earned from third parties or non- members does not qualify for exemption u/s.80P. It is an admitted position that the interest so earned should be taxed as 'income from other sources' There is a cleavage of judicial opinion among several High Courts on the issue of eligibility of this kind of income for exemption u/s. 80P(2)(a)(i) of the Act. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. Punjab State Cooperative Federation of Housing Building Societies Ltd. 11 taxmann.com 448, the Hon'ble Gujarat High Court in the case of State Bank of India Vs. CIT 389 ITR 578 (Guj.), the Hon'ble Delhi High Court in the case of Mantola Co- operative Thrift & Credit Society Ltd. Vs. CIT 50 taxmann.com 278, the Hon'ble Punjab & Haryana High Court in the case of CIT Vs. Punjab State Cooperative Agricultural Development Bank Ltd. 389 ITR 68 and the Hon'ble Kolkata High Court in the case of CIT Vs. Southern Eastern Employees Cooperative Credit Society Ltd. 390 ITR 524 took a view that the income arising on the surplus invested in short term deposits and securities cannot be attributed to the activities of the society and, therefore, not eligible for exemption u/s.80P(2)(a)(i) of the Act. However, the Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 taxmann 309 (Kar.) and the Hon'ble Telangana and Hon'ble Andhra Pradesh High Court in the case of Vaveru Co-operative Rural Bank Ltd. v CIT [(2017) 396 ITR took a view that such interest income is attributable to the activities of the society and, therefore, eligible for exemption u/s.80P(2)(a)(i) of the Act. The Coordinate Bench of Pune Benches in the case of M/s. Ratnatray Gramin Bigar Sheti Sah. Pat Sanstha

Maryadit Vs. ITO (ITA Nos.559/560/PUN/2018, dated 11-12-2018) has taken view in favour of the assessee following the judgment of Hon'ble Karnataka High Court in the case of Tumkur Merchants Souharda Credit Cooperative Ltd. (supra). Respectfully following the decision of the Coordinate Bench, we hold that the interest income earned on the investment of surplus money with banks is also eligible for exemption u/s.80P(2)(a)(i) of the Act. Thus, the grounds of appeal No. 1 & 2 stands allowed."

6. Thus, the order passed by the ld. CIT(A) is in conformity with the settled position of law by virtue of the above discussion. Therefore, we affirm the impugned order directing the Assessing Officer to allow the claim of exemption u/s.80P(2)(a)(i)/80P(2)(d) on the interest income earned on investments made out of surplus funds made with Cooperative banks, Cooperative Societies and Nationalised banks."

5. We adopt the foregoing detailed discussion *mutatis mutandis* to accept the assessee's impugned identical section 80P deduction claim of Rs.57,13,882/- forming subject matter of adjudication herein in very terms. Ordered accordingly.
6. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 18th July, 2025

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 18th July, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi