



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA
BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**ITA Nos. 107/PAN/2025
Assessment Year : 2017-18**

Goa PWD Staff Co-operative
Credit Society Limited.
PWD New Building,
Altinho, Panaji Goa-403 001.
PAN : AABAG5329G

..... *Appellant*

V/s

The Income Tax Officer,
Ward-1(1), Panaji, Goa.

..... *Respondent*

Appearances

Assessee by : Mr Vinod Totekar ['Ld. AR']
Revenue by : Ms Rijjula Uniyal ['Ld. DR']
Date of conclusive Hearing : 06/08/2025
Date of Pronouncement : 07/08/2025

ORDER

PER G. D. PADMAHSHALI:

This appeal is filed by the assessee u/s 253(1) of the Income-tax Act, 1961 ['the Act'] challenges the DIN & orders ITBA/APL/S/250/2024-25/1073747642(1) dt. 26/02/2025 passed by the Addl./Jnt. Commissioner of Income Tax, Appeals-2, Ahmedabad ['Ld. CIT(A)'] u/s 250 of which in turn arose out of order of assessment passed u/s 143(3) of the Act by the Income Tax Officer, Ward-1(5), Panaji, Goa ['Ld. AO'] for the assessment year 2017-18 ['AY'].



2. **The long and short of the case is that;** the assessee is an employee's Co-Operative Credit Society and filed its return ['ITR' hereafter] declaring total income of ₹NIL/- on 31/03/2019 after claiming therein ₹3,94,466/- as deduction u/s 80P(2)(d) u/c VI-A of the Act. The said return vide notice u/s 143(2) of the Act dt. 20/09/2019 was selected for scrutiny wherein following deductions claimed in the return were denied and the consequential assessment u/s 143(3) of the Act was framed determining income at ₹3,94,466/- owing to denial of deduction u/s 80P(2)(d) r.w.s. 80P(4) of the Act in relation to interest income earned by the assessee on its term deposits held with Goa State Co-operative Bank Limited['GSCBL']. Aggrieved by the disallowance matter travelled up in first appeal, wherein the Ld. NFAC partly allowed the appeal by confirming the denial in line with the notings of the Ld. AO. While confirming the said denial the Ld. NFAC reiterated that, the payer of interest income to the assessee is a bank hence claim is not deductible as transaction with bank ditches the spirit of beneficial support to co-operative movement.



3. Aggrieved assessee is in appeal before us for a sole & substantive ground for full 80P(2)(d) deduction in relation to interest earned by it on investment held with GSCBL.

4. We have heard rival party's submission and subject to rule 18 of ITAT-Rules, 1963 perused the material placed on records and considered the facts in the light of settled position of law, which were forewarned to the parties present for their rebuttal. Thus the present adjudication deals with an issue and answers the question as to; *'whether earning of interest income on investment in the form of term deposit made/held with State co-operative Bank' qualifies for deduction u/s 80P(2)(d) of the Act?*

5. We have given a thoughtful consideration to the issue under appeal and note that, a similar issue arose before the Ld. Co-ordinate Bench in **GOA BAGAYATDAR SAHAKARI VIKRI SAUNSTHA MARYADIT Vs ITO [2025, 74 CCH 105 (Pan)]**, wherein the Ld. Co-Ordinate bench after elaborate analysis of provisions of section 80P(4) *qua* 80P2(d), allowed the appeals of the assessee holding that the provisions of



section 80P(4) shall apply to claimant assessee bank and said provisions shall have no application to the assessee co-operative society which was in receipt of income from the co-operative bank which *per-se* is a registered society. The relevant adjudication dilated at para 5 to 6 is reproduced hereinafter as;

5. From the facts solidified by the rival party's submission we note that, there is no dispute that the assessee is a co-operative society and is entitled to claim deduction u/s 80P(2)(a)(i)/(d) of the Act. Further there is much less dispute over the nature of income received/earned by the assessee in the form of interest on deposits & balances held with GSCBL Bank. The Revenue in the present case first on hand denied 80P(2)(d) deduction to the appellant assessee for a reason that, GSCBL is a bank and not a co-operative society within the meaning of section 2(19) of the Act, hence interest income was earned from such bank do not qualify for deduction u/s 80P(2)(d) of the Act. The Revenue further bettered its denial on the foundation that, surplus funds left with the assessee is taken out of mutuality for investment with bank hence contravene the privity of mutuality, therefore the interest earned on such investment do not qualify for deduction u/80P(2)(d). It the claim of the Revenue that, the character of such interest in view 'PCIT Vs Totgar's Co-operative Sale Society Ltd.' [2017, 292 ITR 74 (Kar)] falls out for deduction u/s 80P(2)(d) of the Act.



6. At the outset we note that, a similar issue of deduction of 80P(2)(d) deduction in relation to interest/dividend received by the co-operative society from GSCBL came for consideration before the Ld. Co-ordinate bench in ‘ACGL BBD Employees Co-op. Credit Society, Ltd. Vs ITO, Goa’ [ITA No. 212/PAN/2024 dt. 12/02/2025] whereby interest earned by co-operative society on its investment with GSCBL was held as deductible u/s 80P(2)(d) of the Act. The relevant adjudication laid in para 6 to 15 from the order is reproduced herein as;

6. First of all, we are mindful to state that, the allowability of deduction u/s 80P(2)(d) of the Act against the interest on deposits & dividend from shares held by one co-operative society with another co-operative society is no-more res-integra. Secondly the provisions of s/s (4) of section 80P of the Act applies to claimant assessee which is co-operative bank as defined in Part V of the Banking Regulation Act, 1949 [‘BRA’ hereafter].

7. Now coming to allowability of deduction u/s 80P(2)(d) of the Act is concerned, a bare perusal said provision of the Act clearly hint sites that an interest & dividend income derived by one co-operative society from its investment (irrespective of nature) held with other co-operative society is eligible for deduction u/s 80P(2)(d) of the Act. The constructive analysis of provision reveals that, an assessee’s entitlement for deduction u/s 80P(2)(d) of the Act prima-facie is subject to satisfaction of twofold pivotal conditions viz; (1) a recipient assessee vis-à-vis claimant of deduction must be a co-operative society within the meaning of section 2(19) of the Act AND (2) a payer of income must also be a co-operative society as defined u/s 2(19) of the Act. The conjoint reading of section 80P(2)(d) and section 2(19) of the Act necessitates that, a recipient and a payer of interest/dividend both must be co-operative society registered either under Central Co-operative Societies Act, 1912 or under any other law for the time being in force in any state. This stipulation fastened is compiled the moment both recipient & payer of interest/dividend



are registered either under; (a) Co-operative Society Act, 1912 or (b) State Co-operative Societies Act in force. Thus, where a recipient cum claimant assessee as well as a payer of interest/dividend income both are registered societies then in our considered view noting can preclude an assessee from claiming such interest/dividend as deductible u/s 80P(2)(d) of the Act. This continues to hold the field irrespective of class within which such recipient assessee society or a payer society is registered. What is indispensable for clause (d) of s/s (2) of section 80P of the Act is the statutory/legal establishment of recipient & payer and not the class within which they fall or registered.

8. Conversely, where an assessee is a co-operative society & is not a co-operative bank within the meaning of explanation (a) to section 80P(4) of the Act and a payer of interest/dividend is also a co-operative society then in our considered view irrespective of status of a payer falling within the meaning assigned to it in Part V of BRA as to co-operative bank or not, a recipient assessee society's right to deduction u/s 80P(2)(d) of the Act cannot be infringed by application of s/s (4) thereof. Going a step further it is also mindful to note here that, the language of s/s (4) of section 80P of the Act unambiguously capable of suggesting that it only comes into play when a claimant assessee falls within the meaning of 'Co-operative bank' as assigned under Part V of BRA (supra) and not otherwise.

9. In the present case, the appellant admittedly is a co-operative society registered under the State Co-operative society Act, thus at the outset absolutely fulfils the first condition so as to entitle for deduction u/s 80P(2)(d) of the Act. Now in vouching the fulfilment of second condition, we note that, the GSCBL is also a society registered u/s 5 of Goa State Co-operative Societies Act, vide registration No BNK-(a)-1/Goa dt. 07/11/1963. In terms of section 10 (supra) the GSCBL is granted registration under 'class-3 as co-operative bank with sub class as central Bank'. These findings de-facto sufficient to establish that, the payer of interest i.e. the GSCBL is also a registered co-operative society, thus slakes the second condition fastened on the assessee for claim of deduction u/s 80P(2)(d) of the Act. On the other hand, the appellant co-operative



society is neither a co-operative bank within the meaning assigned in Part V of BRA nor holding any banking license. The payer of interest income to the assessee society i.e. GSCBL although is a co-operative bank in common parlance but not a co-operative bank strictly within the meaning assigned in Part V of BRA. Therefore, the denial of deduction by implication of s/s (4) of section 80P is untenable. In view of these clinching factual matrix, in our considered view there remains much less merits in application of s/s (4) of section 80P of the Act and in denying the 80P(2)(d) deduction to the appellant.

10. *A similar view can also be traced in the adjudication of Ld. Co-ordinate bench in 'Alaknanda Sahakari Gruharachana Sanstha Maryadit Vs ITO' [2024, TaxPub(DT) 4845 (Pune-Trib)] wherein the claim for deduction u/s 80P(2)(d) of the Act was denied to the assessee by implication of s/s (4) of section 80P of the Act against interest received by the assessee on its investment from Pune District Central Co-operative Bank.*

11. *In our considered view, once the claimant assessee falls outside the ambit of explanation (a) to section 80P(4) of the Act then denial of 80P(2) deduction would be contra-legem. This find fortified in case of 'PCIT Vs Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd.' [2023, 454 ITR 117 (SC)], where the assessee was a cooperative credit society engaged in the business of providing credit facilities to its members. The assessee claimed deduction u/s 80P(2) of the Act, but the Assessing Officer disallowed the deduction holding that the assessee is a cooperative bank and hence not eligible to claim deduction as per Section 80P(4) of the Act. The first and second appellate authority and the Hon'ble Jurisdictional High Court held in favour of assessee holding that assessee is a co-operative society and not a cooperative bank, hence eligible for deduction u/s 80P(2) of the Act.*

12. *On the contrary there is much less material placed on record by the Revenue in establishing that the payer GSCBL is a 'co-operative bank' within the meaning of explanation (a) to section 80P(4) of the Act, therefore in view of the decision of Hon'ble Apex Court in 'Kerala State Co-Operative Agricultural and Rural*



Development Bank Ltd. (KSCARDB) Vs TAO' [2023 INSC 830 (SC)], the denial of 80P(2)(d) deduction to the assessee and the impugned action of the respondent Revenue has no legal sanctity.

13. *Before departure, we further find that the Hon'ble Supreme Court in case of Mavilayi Service Co-operative Bank Ltd. (supra) while analysing the provision of Section 80P(4) of the Act has categorically held that Section 80P(4) is a proviso to the main provision contained in Section 80P(1) and 80P(2) and excluded only cooperative banks which are cooperative society and also possesses a licence from RBI to do banking business. Their Hon'ble Lordships have further held that, the limited object of section 80P(4) is to exclude Co-operative Banks that function at par with other commercial banks, therefore Section 80P(4) is relevant only where the claimant assessee is a cooperative bank and which claims a deduction u/s 80P(2) of the Act which is not the facts of the present case. The decision of the Hon'ble Karnataka High Court 'PCIT Vs Totagars Co-operative Sale Society' (supra) is distinguishable and in any case, the later decision of Hon'ble Supreme Court in case of 'Mavilayi Service Co-operative Bank Ltd'. (Supra) wherein the correct legal preposition has been laid down by the Hon'ble Supreme Court has to be followed.*

14. *In view of the aforestated discussion and respectfully following judicial precedents (supra) we hold that section 80P(4) of the Act does not jeopardise the claim of deduction to the assessee co-operative society u/s 80P(2)(d) in respect of interest/dividend income from investments/share held with other co-operative society (payer) irrespective of its (payer) classification and status as to whether it attracted disqualification u/s 80P(4) of the Act or not.*

15. *In consequence we hold that, the views adopted by the tax authorities below in the present case, in our considered opinion are not in conformity with aforestated legal position and binding judicial precedents (supra), hence vacated. Resultantly, we set-aside the impugned order and reverse the denial of 80P(2)(d) deduction in entirety. The grounds accordingly stands adjudicated.*
(Emphasis supplied)



6. In the absence of anything contrary brought to our notice by the respondent Revenue or convincing us effectively with sufficient reasons for diverting from former judicial precedents, as a matter of consistency, adopting equi-reasoning, we set-aside the impugned order and reverse the disallowance holding that, the interest on investment made with GSCBL Bank qualifies for deductions u/s 80P(2)(d) of the Act as it satisfies twofold conditions laid therein for the year under consideration. The substantive & solitary ground raised in the present appeal thus stands allowed.

7. The appeal in result is ALLOWED.

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

-S/d-

PAVAN KUMAR GADALE
JUDICIAL MEMBER

Panaji/Dt: 07th August, 2025

Copy of the Order forwarded to:

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|-------------------|--------------------------------|-------------------------|
| 1. The Appellant. | 2. The Respondent. | 3. The CIT(A) Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Goa | 6. Guard File |

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

By Order,
Sr. Private Secretary / AR ITAT, Panaji.