

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA Nos.314 to 317/SRT/2025
AYs: (2017-18, 2018-19, 2020-21 & 2022-23)
(Hybrid Hearing)**

DCIT, Circle – 2(1)(1), Surat	Vs.	Bardoli Vibhag Gram Vikas Co-op. Society Ltd., Sardar Baugsaat Gala Bardoli, H.O. Surat, Gujarat - 394601
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAATB8135B		
(Appellant)		(Respondent)

Appellant by	Shri Ravi Kant Gupta, CIT-DR with Shri Ajay Uke, Sr. DR
Respondent by	Shri Akshay M. Modi, CA
Date of Hearing	19/08/2025
Date of Pronouncement	22/08/2025

आदेश / ORDER

PER BENCH:

These four appeals by the revenue emanate from the orders passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 28.01.2025 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short, 'CIT(A)'] for the assessment years (AYs) 2017-18, 2018-19, 2020-21 and 2022-23 respectively. Since facts are same, with consent of both parties, the cases were heard together; and a common order is passed for the sake of convenience and brevity. ITA No. 314/SRT/2025 for AY 2017-18 is taken as 'lead case'.

2. The grounds of appeal in ITA No.314/SRT/2025 are as under:

“(1) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act of Rs.12,89,22,780/- ignoring the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. reported in 322 ITR 283, wherein it was held that interest earned from investments made in any bank not being cooperative society, is not deductible under section 80P(2)(d) of the Act.

(ii) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2) (d) of the Act without appreciating the facts that the deposit in Co-operative Banks lacks the degree of proximity between the members of the society with that of cooperative bank and thus offends this sacrosanct principle of mutuality.

(iii) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring Hon'ble Gujarat High Court's observation in Katlary Kariyana Merchant Sahakari Sarafi Mandali in SCA No.20585 of 2019 that by virtue of amendment in section 194A(3)(v) of the Income tax act, it has also excluded the co-operative banks from the definition of "co-operative society" by the Finance Act, 2015.

(iv) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s 80P(2)(d) of the Act without appreciating the facts that the Co-operative Banks are entirely different species than those of Co-operative Societies, and for deduction u/s 80P(2)(d) of the Act the income must be derived from investment with any other co-operative society only, as held by the Hon'ble Karnataka High Court in the case of Principal Commissioner of Income-tax, Hubballi vs. Totagars Co-operative Sale Society, reported in, (2017) 83 taxmann.com 140 (Karnataka) and Hon'ble Supreme Court in the case of Totagar's Co-operative Sales Society Ltd reported in (2010) ITR 283 (SC).

(v) On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act and has not appreciated that the introduction of sub-section (4) was to exclude the Cooperative Banks from availing the benefits of deductions under section 80P and the section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2) consequently, the exclusion of Cooperative Banks extends to Section 80P(2)(d) as well as held by Hon'ble Supreme Court in the case of Mavilayi Service Co-Operative Bank Ltd Vs Commissioner of Income Tax (2021) 431 ITR 1 (SC).

(vi) On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.

(vii) It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.

(viii) The appellant craves leave to add, alter, amend and/or withdraw any grounds of appeal either before or during the course of hearing of the appeal."

3. The grounds of appeal in ITA No.315/SRT/2025 are as under:

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act of Rs. 9,54,28,735/- (after allowing the loss of Rs.7,25,78,211/- net addition of Rs.2,28,50,524/- was made) ignoring the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. reported in 322 ITR 283, wherein it was held that interest earned from investments made in any bank not being cooperative society, is not deductible under section 80P(2)(d) of the Act.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the deposit in Co-operative Banks lacks the degree of proximity between the members of the society with that of cooperative bank and thus offends this sacrosanct principle of mutuality.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring Hon'ble Gujarat High Court's observation in Katlary Kariyana Merchant Sahakari Sarafi Mandali in SCA No.20585 of 2019 that by virtue of amendment in section 194A(3)(v) of the Income tax act, it has also excluded the co-operative banks from the definition of "co-operative society" by the Finance Act, 2015.

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the Co-operative Banks are entirely different species than those of Co-operative Societies, and for deduction u/s 80P(2)(d) of the Act the income must be derived from investment with any other co-operative society only, as held by the Hon'ble Karnataka High Court in the case of Principal Commissioner of Income-tax, Hubballi vs. Totagars Co-operative Sale Society, reported in, (2017) 83 taxmann.com 140 (Karnataka) and Hon'ble Supreme Court in the case of Totagar's Co-operative Sales Society Ltd reported in (2010) ITR 283 (SC).

5. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act and has not appreciated that the introduction of sub-section (4) was to exclude the Cooperative Banks from availing the benefits of deductions under section 80P and the section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2) consequently, the exclusion of Cooperative Banks extends to Section 80P(2)(d) as well as held by Hon'ble Supreme Court in the case of

Mavilayi Service Co-Operative Bank Ltd Vs Commissioner of Income Tax ((2021) 431 ITR 1 (SC).

6. On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.

7. It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.

8. The appellant craves leave to add, alter, amend and/or withdraw any grounds of appeal either before or during the course of hearing of the appeal.”

4. The grounds of appeal in ITA No.316/SRT/2025 are as under:

“1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act of Rs. 3,19,67,167/- ignoring the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. reported in 322 ITR 283, wherein it was held that interest earned from investments made in any bank not being cooperative society, is not deductible under section 80P(2)(d) of the Act.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the deposit in Co-operative Banks lacks the degree of proximity between the members of the society with that of cooperative bank and thus offends this sacrosanct principle of mutuality.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring Hon'ble Gujarat High Court's observation in Katlary Kariyana Merchant Sahakari Sarafi Mandali in SCA No.20585 of 2019 that by virtue of amendment in section 194A(3)(v) of the Income tax act, it has also excluded the co-operative banks from the definition of "co-operative society" by the Finance Act, 2015.

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the Co-operative Banks are entirely different species than those of Co-operative Societies, and for deduction u/s 80P(2) (d) of the Act the income must be derived from investment with any other co-operative society only, as held by the Hon'ble Karnataka High Court in the case of Principal Commissioner of Income-tax, Hubballi vs. Totagars Co-operative Sale Society, reported in, (2017) 83 taxmann.com 140 (Karnataka) and Hon'ble Supreme Court in the case of Totagar's Co-operative Sales Society Ltd reported in (2010) ITR 283 (SC).

5. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act and has not appreciated that the Introduction of sub-section (4) was to exclude the Cooperative Banks

from availing the benefits of deductions under section 80P and the section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2) consequently, the exclusion of Cooperative Banks extends to Section 80P(2)(d) as well as held by Hon'ble Supreme Court in the case of Mavilayi Service Co-Operative Bank Ltd Vs Commissioner of Income Tax (2021) 431 ITR 1 (SC).

6. On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.”

5. The grounds of appeal in ITA No.317/SRT/2025 are as under:

“1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2) (d) of the Act of Rs. 2,40,25,252/- ignoring the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. reported in 322 ITR 283, wherein it was held that interest earned from investments made in any bank not being cooperative society, is not deductible under section 80P(2)(d) of the Act.

2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the deposit in Co-operative Banks lacks the degree of proximity between the members of the society with that of cooperative bank and thus offends this sacrosanct principle of mutuality.

3. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring Hon'ble Gujarat High Court's observation in Katlary Kariyana Merchant Sahakari SarafiMandali in SCA No.20585 of 2019 that by virtue of amendment in section 194A(3)(v) of the Income tax act, it has also excluded the co-operative banks from the definition of "co-operative society" by the Finance Act, 2015.

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act without appreciating the facts that the Co-operative Banks are entirely different species than those of Co-operative Societies, and for deduction u/s 80P(2)(d) of the Act the income must be derived from investment with any other co-operative society only, as held by the Hon'ble Karnataka High Court in the case of Principal Commissioner of Income-tax, Hubballi vs. Totagars Co-operative Sale Society, reported in, (2017) 83 taxmann.com 140 (Karnataka) and Hon'ble Supreme Court in the case of Totagar's Co-operative Sales Society Ltd reported in (2010) ITR 283 (SC).

5. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing deduction u/s. 80P(2)(d) of the Act and has not appreciated that the introduction of sub-section (4) was to exclude the Cooperative Banks from availing the benefits of deductions under section 80P and the section

80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2) consequently, the exclusion of Cooperative Banks extends to Section 80P(2)(d) as well as held by Hon'ble Supreme Court in the case of Mavilayi Service Co-Operative Bank Ltd Vs Commissioner of Income Tax ((2021) 431 ITR 1 (SC).

6. On the basis of the facts and circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the Assessing Officer.

7. It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.

8. The appellant craves leave to add, alter, amend and/or withdraw any grounds of appeal either before or during the course of hearing of the appeal."

ITA No.314/SRT/2025 (AY 2017-18):

6. The facts of the case in brief are that the assessee e-filed its return of income for AY 2017-18 on 24.08.2017, declaring total income at Rs. Nil after claiming deduction under Chapter VIA of Rs.12,89,22,780/- from the gross total income of Rs.3,34,54,274/-. The case was selected for scrutiny under CASS. The AO issued notices u/s 143(2) and 142(1) of the Act to the assessee and it was asked to furnish various details. The assessee had claimed deduction u/s 80P of the Act of Rs.12,89,22,780/- including deduction on the dividend and interest from a co-operative bank of Rs.12,88,72,780/- u/s 80P(2)(d) and Rs.50,000/- u/s 80P(2)(c) of the Act. As per section 80P(2)(d) of the Act, deduction is available in respect of income by way of dividend and interest received by the co-operative society on its investment with any other co-operative society. The assessee had received interest and dividend income from co-operative bank and not from co-operative society. The AO did not allow the deduction by holding that section 80P(2)(d) of the Act does not

provide for deduction if interest income and dividend received by the assessee co-operative society is from its investment with co-operative bank in view of the restriction provided in sub-section (4) of section 80P of the Act. The AO observed that when the interest and dividend on investment by co-operative societies in scheduled commercial banks are not available for deduction u/s 80P(2)(d) of the Act, there is no logic in providing the benefit of deduction to the interest earned on deposits from co-operative banks. The AO has discussed provisions of section 80P of the Act and after relying on the decisions in cases of Totagars' Co-operative Sale Society Ltd. vs. ITO, Karnataka (2010) 188 Taxman 288 (SC), Totagars' Co-operative Sale Society Ltd. vs. PCIT, (2017) 83 taxmann.com 143 (Karnataka), SBI vs. CIT, (2016) 389 ITR 578 (Guj.), Tumkur Merchants Souhardha Credit Co-operative Ltd. vs. ITO, 55 taxmann.com 447 (Kar.), Milk Producers Union Ltd. vs. CIT, TA No.473 of 2014, dated 16.06.2014 (Guj.) and some other decisions, held that interest and dividend income earned by the assessee from its investment in co-operative bank totalling to Rs.12,89,27,780/-, which was claimed as deduction u/s 80P(2)(d) of the Act, was not allowable. Accordingly, he disallowed the same and added Rs. Rs.12,89,27,780/- to the total income. Accordingly, total income of the assessee was determined at Rs.5,27,27,765/- against returned income of Rs. Nil.

7. Aggrieved by the order of AO, the assessee filed the appeal before the CIT(A). The CIT(A) has reproduced the Statement of Facts and grounds of

appeal at pages 2 to 5 of the appellate order. He has also reproduced the submission of the appellant at pages 5 to 24 of the appellate order. After considering the submission of the appellant, the CIT(A), at para 4.5 to 5 of the appellate order, has given his findings and allowed appeal of the assessee. Ground Nos.1 to 5 were in respect of disallowance of interest u/s 80P(2)(d) of the Act. The CIT(A) observed that the interest received by the appellant society was from a co-operative bank i.e., The Surat District Co-op Bank. The above bank is also registered under the Co-operative Societies Act. Hence, the interest earned from deposit with the Surat District Co-operative Bank Ltd. is qualified for deduction u/s 80P(2)(d) of the Act. The appellant's contention was that the said bank does not lose its nature of being a co-operative society just because it is also functioning as a bank. The appellant had contended before the CIT(A) that as the Surat District Co-operative Bank is also a co-operative society, hence, the interest received from term deposit was not hit by section 80P(4) of the Act. The CIT(A) relied upon the decisions of ITAT in appellant's own case for AY 2012-13. He also referred to the following decisions, viz. (i) M/s Veer Co-operative Group Housing Society Ltd. vs. ITO (in ITA No.2787/Del/2018), (ii) Surat District Milk Producers Union Ltd. (Surat – Trib.) and (iii) PCIT vs. Totagars Co-operative Sale Society (supra) and deleted the disallowance of deduction u/s 80P(2)(d) of the Act made by the AO.

8. Aggrieved by the order of CIT(A), the revenue filed appeal before the Tribunal. The learned Commissioner of Income-tax – Departmental

Representative (Id. CIT-DR) relied on the order AO and the decision of Hon'ble Supreme Court in case of Totagars Co-operative Sale Society Ltd. (supra).

9. The learned Authorized Representative (Id. AR) of the assessee filed a paper book and relied on the decisions in cases of (i) Kutch District Co-op. Milk Producers Union Ltd. vs. ACIT, (2025) 173 taxmann.com 495 (Guj.), (ii) PCIT vs. Ashwinkumar Arban Co-operative Society Ltd., (2024) 168 taxmann.com 314 (Guj.), (iii) PCIT vs. Shree Madhi Vibhag Khand Udhog Sahakari Mandali Ltd., (2025) 171 taxmann.com 22 (Guj.), (iv) Surat Vankar Sahakari Sangh Ltd. vs. ACIT, (2016) 72 taxmann.com 169 (Guj.), (v) Thorapadi Urban Co-op. Credit Society Ltd. vs. ITO, (2023) 156 taxmann.com 419 (Mad.) and (vi) PCIT vs. Aradhana Urban Co-operative Credit Society Ltd., (2025) 172 taxmann.com 537 (Guj.). He submitted that the Hon'ble Gujarat High Court in case of Ashwanikumar Arban Co-operative Society Ltd. (supra) has considered and distinguished the order passed by the Hon'ble Supreme Court in case of Totagars Co-operative Sales Society Ltd. (supra) and held that deduction u/s 80P(2)(d) is available to Co-operative Societies on income earned as interest on investment made with co-operative bank, which in turn is a co-operative society itself. The Id. AR also relied upon various decisions of ITAT, Surat in appellant's own cases, viz., (i) ACIT vs. Bardoli Vibhag Gram Vikas Co-op. Credit Soc. Ltd., (2018) 97 taxmann.com 381, (ii) DCIT vs. Bardoli Vibhag Gram Vikas Co-op. Credit Soc., (2019) 102 taxmann.com 110, (iii) ITO vs. Bardoli Vibhag Gram Vikas Co-op. Credit Soc. Ltd., (2018) 96 taxmann.com 529 and (iv) Bardoli

Vibhag Gram Vikas Co-op. Credit Soc. Ltd. vs. PCIT, (2021) 127 taxmann.com 334 and submitted that the CIT(A) has rightly deleted the disallowance made by the AO.

10. We have heard both the parties and perused the material available on record. We have also deliberated upon the decisions relied upon by both sides. The ground raised by the revenue is that deduction of Rs.12,89,22,780/- claimed u/s 80P(2)(d) of the Act on account of interest on investment held with The Surat District Co-operative Bank Ltd. is not allowable u/s 80P(2)(d) of the Act. It is an admitted fact that The Surat District Co-operative Bank Ltd. is a co-operative society, duly registered under the Gujarat Co-operative Societies Act, 1961. The Id. AR has relied on the decisions of the Hon'ble jurisdictional High Court in case of Ashwinkumar Arban Co-operative Society Ltd. (supra) and Kutch District Co-operative Milk Producers Union Ltd. (supra), wherein the Hon'ble jurisdictional High Court held that deduction u/s 80P(2)(d) is available to co-operative societies on income earned as interest on investment made with co-operative bank, which in turn is a co-operative society. In case of Ashwanikumar Arban Co-op. Society Ltd. (supra), the Hon'ble High Court held as under:

“28. Having heard learned advocates for the respective parties and considering the controversy arising in these tax appeals, we are of the opinion that the controversy sought to be canvassed with regard to deduction under section 80P(2)(d) of the Act is no more res integra in view of the decision of this Court in case of Katlary Kariyana Merchant Sahkari Sarafi Mandali Ltd. (supra) as well as in case of State Bank of India (supra) wherein it was held that the deduction of under section 80P(2)(d) of the Act is available to the

cooperative societies on the income earned as interest on the investment made with the cooperative bank which in turn, is a cooperative society itself.

.....

33. *In view of the above dictum of law as well as the provisions of the Act which are considered we are of the opinion that the provisions of section 80P(2)(d) would be applicable in the facts of the case and the PCIT was not justified in invoking revisional powers under section 263 of the Act which is rightly reversed by the Tribunal holding that the cooperative bank is a cooperative society registered under the Gujarat State Cooperative Societies Act and in view of the various decisions of the Court, the Tribunal after following the same has come to the conclusion that the assessment was not erroneous allowing deduction of section 80P(2)(d) of the Act which is in consonance with the various decisions of the Court as a twin condition invoking section 263 as to the assessment being erroneous and prejudicial to the interest of the revenue are not being fulfilled.”*

11. In the subsequent decision in case of Kutch District Co-operative Milk Producers Union Ltd. (supra), the Hon’ble jurisdictional High Court followed the above decision in case of Ashwinikumar Arban Co-operative Society Ltd. (supra) and held that where assessee society earned interest income on fixed deposit kept with co-operative bank, assessee was eligible for deduction u/s 80P(2)(d) on the said interest income. The facts of the instant case are similar to the facts of the case discussed above. Moreover, the Surat Tribunal in assessee’s own case (supra) has allowed similar deduction claimed u/s 80P(2)(d) of the Act. Further, the Surat Tribunal has allowed the appeal of assessee under similar facts and circumstances in the case of DCIT vs. The Pursottam Farmer’s Co-operative Cotton Grnning and Pressing Society Ltd. (ITA Nos.499/SRT/2024 & 523/SRT/2024, dated 19.08.2025). Hence, following the decisions cited supra, the grounds raised by the revenue are dismissed.

12. In the result, the appeal of the revenue is dismissed.

ITA Nos.315 to 317/SRT/2025 (AYs 2018-19, 2020-21 & 2022-23):

13. Facts and grounds of all the above appeals are similar to the appeal decided above. The decisions of the CIT(A) are also based on the similar ground. Hence, following the reasons given in ITA No.314/SRT/2025 (supra), these appeals are also dismissed.

14. In the result, the appeals of the revenue are also dismissed.

15. In the combined result, the appeals of the revenue are dismissed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 22/08/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 22/08/2024

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat