



सत्यमेव जयते



**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 No. 113/PAN/2025

Assessment Year : 2020-21

KPTCL Employee's Credit
Co-operative Society, Ltd.
01, Opp. JNMC College,
Nehru Nagar, Belgavi-590010
PAN:AAGFK2092Q

..... Appellant

V/s

Principal Commissioner of Income Tax,
Hubli.

..... Respondent

Appearances

Assessee by : Mr Ashok Mudnur ['Ld. AR']
Revenue by : Capt. Pradeep Arya ['Ld. DR']
Date of conclusive Hearing : 07/08/2025
Date of Pronouncement : 18/08/2025

ORDER

PER G. D. PADMAHSHALI, AM;

This captioned assessee's appeal is filed against DIN & Order No. 1074295549(1) dt. 10/03/2025 passed u/s 263 of the Income-tax Act, 1961 [in brief 'the Act'] by the Principal Commissioner of Income Tax, Hubli, [in brief 'Ld. PCIT'] which in turn set-aside the order of assessment dt. 28/08/2022 passed u/s 143(3) of the Act by the National Faceless e-Asstt. Centre, Delhi [in brief 'Ld. NFeAC'] in relation to assessment year 2020-21 [in brief 'AY']



2. The short question in the present appeal deal with ‘as to whether inquiry into eligibility & entitlement for claiming deduction u/s 80P(2) of the Act is carried while framing regular assessment?’

3. The rival party’s submission solidifies facts of the case brief are that;

3.1 The assessee is a Karnataka Power Transmission Corporation Employee’s Credit Cooperative Society registered under State Societies Act, 1959 for carrying on business of accepting deposits and providing credit facilities to its needy members. The assessee filed its return on 15/02/2021 declaring ₹NIL income after claiming ₹1,09,14,019/- as deduction u/s 80P(2)(a)(i) of Chapter VI-A the Act. The case of the assessee was selected for scrutiny to verify genuineness of the large claims made by the assessee in its return of income and more specifically u/c VI-A of the Act. In response thereto the assessee filed its written submission accompanying therewith copy of registration certificate, bye-laws, audited financials etc. Keeping in view with the reasons of scrutiny assessment the reply furnished by the assessee was considered and without making any addition the returned income file by the assessee was accepted vide an assessment order dt. 20/08/2022 framed u/s 143(3) of the Act.



3.2 Subsequent to culmination of assessment proceedings, the records were called upon and perused u/s 263 of the Act wherein it was revealed to the Ld. PCIT that, for the year under consideration the assessee earned an interest of ₹1,82,550/-on its Fixed Deposits/investment held with Belgaum District Credit Co-op. Bank [in brief 'BDCC']. While analysing the income declared by the assessee *qua* interest earned on FD's from BDCC Ld. PCIT noted that, such interest income is chargeable to tax u/s 56 of the Act as 'Income from other sources' [for short 'IOS'] irrespective of whether such interest was earned out of investment held with scheduled bank or co-operative bank. As such interest income since chargeable to tax u/s 56 of the Act, therefore is neither deductible u/s 80P(2)(a)(i) nor 80P(2)(d) of the Act, in view thereof, vide notice dt. 08/11/2024 the Ld. PCIT called upon the assessee to show cause as to why the order of assessment on the former score should not be set-aside for fresh assessment. The assessee representation made vide letter dt. 26/11/2024 when failed to inspire any confidence that, earning of interest or dividend by one co-operative society from another one co-operative society (by establishment/incorporation) is deductible u/s 80P(2)(d), the Ld. PCIT invoking clause (a) and (d) of explanation 2 to section 263 of the Act vide impugned order held the assessment as



erroneous & prejudicial to the interest of revenue for allowing deduction u/c VI-A of the Act without making proper inquiry regarding nature of business income declared by the assessee. While coming to such conclusion the Ld. PCIT relied upon the decision of Hon'ble Apex Court in the case of '*Totagar Co-op. Sales Society Ltd. Vs ITO*' [2010, 188 Taxman 282 (SC)] and the decision of Hon'ble Karnataka High Court in the case of '*PCIT Vs Totagar Co-op. Sales Society Ltd.*' [2017, 83 Taxmann.com 140 (Kar)]

4. Aggrieved by the revisionary order the assessee came in present appeal on following grounds raised in form no 36;

1. The learned PCIT, Hubli has erred in invoking section 263 of the Income Tax Act against the order passed by Assessing Officer u/s 143(3) for the Assessment Year 2020-21 which is opposed to law and facts of the case.

2. The learned PCIT, Hubli has erred in holding order of Assessing Officer u/s 143(3) to be erroneous which was passed by Assessing Officer after due verification of the issue and consideration of explanation filed. We draw support from the case Commissioner of Income Tax Vs Max India India Ltd (2007) 295 ITR 282 (SC) following the Supreme Court order of Malabar Industrial Co Ltd Vs CIT (2000) 243 ITR 83. Wherein it was held " If two views are possible and the Assessing Officer has taken one view with which the commissioner does not



agree, it cannot be treated as erroneous order prejudicial to the revenue''

3. The learned PCIT, Hubli erred in treating the interest income earned from statutory funds with The Belgaum DCC Bank (Cooperative Society with RBI License) as not eligible for deduction u/s 80P(2)(d) as claimed in the return of income filed and assessed.

5. The Ld. AR Mr Mudnur reiterated assessee's twin contentions & corresponding submissions as were made before the Ld. PCIT. It is the case of the appellant that, the very reason for which the return of income selected for scrutiny was the genuineness of claims made u/c IV-A and pursuant thereto in assessment proceedings specific information through notice dt. 10/02/2022 was sought from and provided by the appellant vide written communication dt. 15/02/2022 wherein the interest on investment earned/received, interest expense & other expenditure etc., submitted were verified in detail. After such inquiry, the chargeability under the Act was tested & based upon plausible view deduction u/c VI-A (if any) was granted & returned NIL was accepted. It is thus claimed by the appellant that, it was neither a case of no inquiry nor insufficient inquiry, therefore the assessment is neither erroneous nor prejudicial to the interest of the Revenue. The twin condition since not satisfied therefore the Ld.



PCIT had no jurisdiction to set-aside the assessment order u/s 263 of the Act. To drive home the contention that, the assessment since accepted on the premise of plausible view the decision of Hon'ble Apex Court in '*CIT Vs Max India Ltd*' (supra) heavily relied upon. Further to support contention that the ratio laid in '*Totagars Case*' (supra) does have no application in its case the appellant relied on the decision of Hon'ble Gujrat High Court in the case of '*PCIT Vs Rajkot Lodhika Sahakar Kharid Vechan Sangh Ltd.*' [176 taxmann.com 71], decision of Ld. Co-ordinate bench in the case of '*Khanapur VSS Sangh Ltd Vs PCIT* [ITA 62/PAN/2022] & '*Rana SSK Ltd. Vs PCIT*' [138 taxmann.com 532 (Pune)].

6. *Per contra*, relying on the impugned order the Ld. DR Col. Pradeep Arya tried to dismantle the assessee's twin arguments by reiterating applicability of '*Totagars Case*' (supra) ratio in the present case. The Ld. DR submitted that, in view of '*Totgars Case*' *per-se*, such interest on FD's cannot be termed as business income but income from other sources and therefore taxable u/s 56 of the Act. The Ld. DR further argued that, since former facts never been actually inquired into by the Ld. AO therefore the assessment order *de-facto* rendered itself erroneous which is also prejudicial to the



interest of Revenue. The remand of issue caused no prejudice to the appellant, the Ld. AO would verify and deal therewith in accordance with law, therefore impugned order is to be upheld.

7. Heard rival party's submissions and; subject to rule 18 of ITAT Rules, 1963 perused material placed on records, considered the facts of the case in light of settled legal position and we note that, the solitary dispute in the present case is over inquiry into ***earning of interest on Fixed Deposit held with BDCC qua activities of the appellant and consequential determination of heads of income for taxability.***

8. In adjudicating this core issue, let us first come to ambit scope of revisionary jurisdiction through judicial precedents. The Hon'ble apex court's landmark decision in '*Malabar Industrial Co. Ltd. Vs CIT*' reported at 243 ITR 83 made it ample clear that the crucial expression 'prejudicial to the interest of the revenue' is to be read in conjunction with an 'erroneous order passed' in assessment framing the subject-matter of revision. Their Hon'ble lordships have observed that, every loss of revenue in consequence to the assessment in issue cannot be treated as prejudicial to interest of the revenue. For example, where an assessing authority adopts one of the course



possible in law and it has resulted in loss of revenue or where two issues are possible and one of them has been taken in assessment and the Commissioner does not agree to same, it cannot be taken as an instance involving erroneous assessment prejudicial to interest of the revenue unless of course the Assessing Officer's view is unsustainable in law. The very view laid by the Hon'ble Apex Court (supra) stands reiterated in catena of judicial decisions viz; '*CIT Vs Max India Ltd.* (2007) 295 ITR 282 (SC), *CIT v. Nahar Exports Ltd.* (2007) 288 ITR 494 (P&H), *CIT vs Gabriel India Ltd* (1993) 203 ITR 108 (Bom) *Grasim Industries vs. CIT* (2010) 321 ITR, 92 (Bom).

9. Keeping in mind former settled legal position now reverting back to the present impugned order under challenge at the very outset we note that, it is an admitted fact that the appellant assessee is a co-operative society registered under the State Co-operative society. The appellant for the year under consideration was engaged in the business of providing credit facilities to its members as one of its primary objects with which the registration to it was granted under the applicable state co-operative laws. In the course of carrying on its business of providing credit facilitates to its members the appellant for the year under consideration indisputably earned interest income which was admittedly accrued to or earned by it from loans extended



by it to its members and from investment made/held by it with various banks including nationalised banks, scheduled banks and co-operative bank. In earning such interest income (from members on deposits as well on investment with bank) the appellant inevitably also incurred/paid corresponding interest expenditure on deposits accepted by it and other such expenditure in providing such credit facility to its member which in turn yielded revenue to it. We note that, these facts were inquired in detail during the course of assessment proceedings and replies thereto were indisputably placed on records for verification & analysis. After due perusal of material placed on records, the Ld. AO drawn a plausible conclusion without any adverse inference. The residue income/surplus left over after meeting out interest expense & other expenditure from the interest so earned, thus found accepted by the Ld. AO as the business income and brought to tax. There is much less evidence to show or at least brought to our notice that while carrying out the assessment the Ld. AO caused no inquiry into (i) constitution of appellant assessee (ii) nature of activities carried out by it (iii) nature of interest earned on loans extended and on investment held with banks etc. & taxability thereof (iv) nature of surplus from business shown to have earned by the appellant. Insofar as the interest on investment with co-operative



societies/banks and other bank is concerned, such income is earned/accrued to it during the conduct of its principal business of providing credit facilities to its members deposits therefrom are accepted and to service interest liability thereon. The net positive interest generated out of such activities without a smoke of doubt partakes the character of business income as it possess all attributes of section 28 of the Act vis-à-vis qualifies for deduction u/s 80P(2) of the Act. Resultantly we do not find any merit in the foundation formed based upon which the order of assessment set-aside by the Ld. PCIT for requiring further inquiry into subject matter.

10. Insofar as the taxability of such interest and its deduction u/s 80P(2) is concerned the theory of surplus funds does not apply to co-operative society which is primarily engaged in providing credit facilities to its members for the reasons that, (i) credit co-operative society owing to regulatory supervision operates with liquid funds which cannot be characterised as other than business funds and (ii) such liquid funds for the purpose of generation of income are invested into liquid assets like fixed deposits / term deposits, etc. The interest generated from such liquid investment partakes the character of business income being earned while carrying on the business of



providing credit facilities to its members. The surplus fund theory as applied in '*Totagars Co-op. Sale Society*' and as binding precedents shall apply to societies other than credit co-operative societies. The appellant in the present case, undisputedly a registered co-operative society and engaged in the qualified business of providing credit facilities to its members as one of its prime objects, therefore the impugned interest earned by it out of liquid funds placed/invested with other co-operative & banks qualifies the test of business activity hence very much taxable as 'profits & gains of business profession and as much deductible u/c VI-A of the Act.

11. On the subject matter of taxability of interest we also note that, similar facts came for consideration before Hon'ble Andhra Pradesh High Court in the case of '*Vavveru Co-operative Rural Bank Ltd. Vs CCIT* [2017, 396 ITR 371 (AP&THC)] wherein their Hon'ble lordship while dealing with the deductibility of claims u/c VI-A of the Act and more precisely the allowability of 80P(2) claim in relation to interest income earned on investment held with banks including commercial/scheduled bank, it after elaborate discussion it was held as that;

'8. Therefore, the real controversy arising in these writ petitions is as to whether the income derived by the petitioners by way of



interest on the fixed deposits made by them with the banks, is to be treated as profits and gains of business attributable to any one of the activities indicated in sub-clauses (i) to (vii) of clause (a) of sub-section (2) of section 80P or not.

9. While petitioners place strong reliance upon a decision of the Division Bench of this court in *CIT v. Andhra Pradesh State Co-operative Bank Ltd.* [2011] 12 taxmann.com 66/200 Taxman 200/336 ITR 516, the Revenue places strong reliance upon the decision of the Supreme Court in *Totgar's Co-operative Sale Society Ltd. v. ITO* [2010] 188 Taxman 282/322 ITR 283.

10. In order to understand the scope of the controversy, it would be better to present in simple terms, the ambit of clause (a) of sub-section (2) of section 80P. This clause is intended for the benefit of (1) certain types of co-operative societies but (2) confined only to the activities listed in sub-clauses (i) to (vii). In other words, clause (a) of sub-section (2) confers a benefit only upon co-operative societies, but the benefit is restricted only to some and not to all of the activities of such co-operative societies. To put it differently, an institution claiming the benefit of clause (a) of sub-section (2) of section 80P should cross 2 check-posts. In the 1st check-post, the institution will have to establish that it is a co-operative society. In the 2nd check-post, the institution has to establish that the deduction sought represents profits and gains of business attributable to one or more of the activities in sub-clauses (i) to (vii).

11. But the manner in which clause (a) is worded appears to be little clumsy. This is due to the reason that though sub-clauses (iii) to (vii) actually describe activities such as marketing, purchase, processing,



collective disposal or fishing or allied activities, sub-clauses (i) and (ii) deal with the nature of the industry/business carried on by the institution. While sub-clause (i) uses the expression "business", sub-clause (ii) uses the expression "industry". Moreover, all the 7 sub-clauses are connected to the expression "co-operative society" by the words "engaged in" appearing in sub-clause (a).

12. The sheet anchor of the case of the petitioners is the expression "attributable to" appearing in the last part of clause (a) of sub-section (2) of section 80P. Since the statute does not use the expression "derived from", but uses the expression "attributable to", the contention of the petitioners is that clause (a) should receive a wider interpretation.

13. The above contention cannot be rejected outright, for the simple reason that in many statutes and for that matter even in the Income-tax Act, the expression "attributable to" is sometimes used with the prefix "directly". The words "directly attributable" to would certainly narrow down the scope of the expression "attributable to". Therefore, the fact that the expression "attributable to" is wider in scope than the expression "derived from" cannot be denied.

14...para to para 33

34. The case before the Supreme Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) was in respect of a co-operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of marketing agricultural produce of the members of



the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd.'s case (*supra*) that the **business activity other than marketing of the agricultural produce actually resulted in net loss to the society.** Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that ITA Nos.450 & 451/PUN/2024 and C.O.Nos.23 & 24/PUN/2024 Vishwakarma Sarkshan Kamgar Sahakari Patsanstha Maryadit the assessee did not pay to its members the proceeds of the sale of their produce, but invested the same in banks. **As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members.** The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note.

35. But, as rightly contended by the learned senior counsel for the petitioners, **the investment made by the petitioners in fixed deposits in nationalised banks, were of their own monies. If the petitioners had invested those amounts in fixed deposits in other co-operative societies or in the construction of godowns and warehouses, the respondents would have granted the benefit of deduction under clause (d) or (e), as the case may be.**

36. The original source of the investments made by the petitioners in nationalised banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). **The character of such income may not be lost, especially**



when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".

37. Therefore, we are of the considered view that the petitioners are entitled to succeed. Hence, the writ petitions are allowed, and the order of the Assessing Officer, in so far as it relates to treating the interest income as something not allowable as a deduction under section 80P(2)(a), is set aside.” (Emphasis supplied)

12. Thus, in substance, the Hon'ble High Court (supra) held that interest income derived on investment made with banks partakes the character of profits & gains of business profession as such interest is attributable to & is earned in the course of its regular business of accepting deposit & providing credit facilities to its members hence also eligible for deduction u/s 80P(2) of the Act.

13. In the Present Case we note that, after due inquiry a plausible view has been formed & taken while assessing the appellant's income which sought to be revised by the Ld. PCIT. On the other hand the Revenue failed to showcase as to how interest earned on FD/investment partakes character of other income in the case of the appellant society thus was to be taxable u/s 56 of the Act and not as business income u/s 28 of the Act. Further the Revenue could hardly place any contrary decision to prove its basis for revisionary action.



14. Placing reliance on ‘Smt. Godavari devi Saraf Vs CIT’ [1978, 113 ITR 589(Bom)] we in view of the principle laid down in ‘CIT Vs Gabriel India Ltd.’ & ‘Malabar Industrial Co. Ltd. Vs CIT’ (supra) adjudicate the dispute in favour of assessee by holding that, while assessing the interest income there was much less failure on the part of the Ld. AO to verify & carryout inquiry in reaching plausible conclusion to accept that such interest income earned out of fixed deposits held with BDCC bank represents business income as it possess all attributes of section 28 of the Act and thus exigible to tax u/s 28 of the Act. In view therefore, the order of assessment cannot be said to be erroneous, which in turn one of twin conditions prescribed for invocation of revisionary proceedings failed. We therefore quash the impugned revisionary order as devoid of merits. The grounds thus accordingly stands allowed.

15. In result, the appeal of the assessee stands ALLOWED.

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

-S/d-

**PAVAN KUMAR GADALE
JUDICIAL MEMBER**

Panaji/Dt.: 18th August, 2025

Copy of the Order forwarded to :

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| 1. The Appellant. | 2. The Respondent. | 3. The AO Concerned. |
| 4. The PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File |

-S/d-

**G. D. PADMAHSHALI
ACCOUNTANT MEMBER**

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