

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.1048/Bang/2025
Assessment year : 2017-18

Bhaskara Employees Credit Co-operative Society Ltd., ISRO Satellite Centre, Airport Road, Vimanapura Post, Bengaluru – 560 017. PAN: AAATB 1577B	Vs.	The Income Tax Officer, Ward 4(2)(2), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Siva Prasad Reddy, ITP.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for the Revenue.

Date of hearing	:	23.09.2025
Date of Pronouncement	:	30.09.2025

ORDER

1. This appeal is filed by Bhaskara Employees Credit Co-operative Society Ltd. (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the Addl/JCIT(A)-1, Visakhapatnam [Id. CIT(A)] dated 6.3.2025 wherein the appeal filed by the assessee against the assessment order passed u/s. 143(3) of the

Income-tax Act, 1961 [the Act] dated 27.12.2019 by the ITO, Ward 4(2)(2), Bangalore [ld. AO] was dismissed.

2. Only grievance in the appeal is with respect to the denial of deduction u/s 80P (2) (a) (i) of ₹ 470,921/- being the interest income accruing on statutory investment in fixed deposits and cooperative banks and scheduled banks made in compliance of the provisions of the Karnataka Cooperative Societies Act, 1959.
3. The brief facts of the case show that assessee is a cooperative society whose membership is strictly confined to the employees of Indian space research Organisation. Society is extending credit facility to its members and registered under the Karnataka Cooperative Societies Act, 1959. Therefore it has claimed that its income is exempt under section 80 P(2) (a) (i) of the Act.
4. The assessee filed its return of income on 24/10/2017 declaring nil income after claiming an amount of ₹ 3,406,263/- as deduction under section 80P of the Act. The learned assessing officer selected return of the assessee for scrutiny for the reason of examination of deduction under section 80 P of the Act.
5. On the assessment, the assessee was denied deduction u/s 80P (2) (a) (i) of the Act on interest income earned by the assessee on investments made in pursuance of provision of The Karnataka State Cooperative Societies Act, 1959 not treating it as business income attributable to the activities of the assessee. The ld assessing officer passed an

assessment order under section 143(3) of the Act on 27/12/2019 denying deduction under section 80P of the Act but determined the total income at Rs 470921/- against the returned income of rupees Nil. Thus the assessee was denied deduction under section 80 P of the Act on the interest income earned by the assessee of ₹ 470,921/-. Main reason for disallowing the above claim is the decision of the Hon'ble Karnataka High Court in case of Totagars' Sales Cooperative Societies (2017) 83 taxmann.com 140 (Karnataka). When the matter reached before the learned CIT – A, the order of the learned AO was upheld. Therefore, assessee is in appeal before us.

6. Though the assessee has raised a ground before us in appeal that no show cause notice was issued, but crux of the argument is that the assessee is entitled to deduction under section 80 P of the Act of interest earned by the assessee on statutory investment made by it in compliance of The Karnataka Cooperative Societies Act, 1959, is allowable as business income and therefore the entitlement of deduction under section 80 P (2) (a) (i) of the Act cannot be denied.
7. Before us the assessee distinguished the decision of the Hon'ble Karnataka High Court and further relied upon the decision of the Hon'ble Supreme Court in case of Kerala State Cooperative Agricultural And Rural Development Bank Ltd (2023) 458 ITR 384 (SC) and as well as the decision of the case of Mavilayi Service Cooperative Bank Ltd (2021) 123 taxmann.com 161 (SC). It submits that the issue is squarely covered in favour of the assessee by the

decision of the coordinate bench also (ITA No.1724/Bangalore/2019 dated 22/11/2021 for AY 2014 – 15) wherein it is held that interest income on statutory investment is eligible for deduction under section 80P of the Act.

8. The learned DR vehemently supported the order of the learned lower authorities and submitted that the Hon'ble Karnataka High Court has categorically held that the interest income could not be granted as deduction under section 80 P of the Act with respect to the interest income earned.
9. I have carefully considered the rival contention and perused the orders of the learned lower authorities. The simple issue involved in this appeal is that an assessee being an employee's credit cooperative society of employees officer is eligible for deduction of interest income on statutory reserve fund which are deposited in terms of regulations of the Karnataka Cooperative Societies Act under section 80 P of the Act or not.
10. Hon'ble Supreme Court had an occasion to consider the issue of interpretation of provision of section 80 P of the Act in *Mavilayi Service Co-operative Bank Ltd. vs. Commissioner of Income Tax, Calicut* [2021] 123 taxmann.com 161 (SC)/[2021] 279 Taxman 75 (SC)/[2021] 431 ITR 1 (SC)[12-01-2021] wherein it was held as under:-

20. We now come to the judgment of this Court in *Citizen Cooperative Society Ltd. (supra)*. This judgment was concerned with an assessee

who was established initially as a mutually aided cooperative credit society, having been registered under section 5 of the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995. As operations of the assessee began to spread over States outside the State of Andhra Pradesh, the assessee got registered under the Multi-State Cooperative Societies Act, 2002 as well. The question that the Court posed to itself was as to whether the appellant was barred from claiming deduction in view of Section 80P(4) of the Income-tax Act - see paragraph 5. After setting out the findings of fact in that case, and the income tax authorities concurrent holding that the society is carrying on banking business and for all practical purposes acts like a co-operative bank, this Court then held as follows:

"18. We may mention at the outset that there cannot be any dispute to the proposition that section 80-P of the Act is a benevolent provision which is enacted by Parliament in order to encourage and promote growth of cooperative sector in the economic life of the country. It was done pursuant to the declared policy of the Government. Therefore, such a provision has to be read liberally, reasonably and in favour of the assessee (see *Bajaj Tempo Ltd. v. CIT* [1992] 3 SCC 78). It is also trite that such a provision has to be construed as to effectuate the object of the legislature and not to defeat it (see *CIT v. Mahindra and Mahindra Ltd.* [1983] 4 SCC 392. Therefore, it hardly needs to be emphasised that all those cooperative societies which fall within the purview of section 80-P of the Act are entitled to deduction in respect of any income referred to in sub-section (2) thereof. Clause (a) of sub-section (2) gives exemption of whole of the amount of profits and gains of business attributable to any one or more of such activities which are mentioned in sub-section (2).

19. Since we are concerned here with sub-clause (i) of clause (a) of sub-section (2), it recognises two kinds of cooperative societies, namely: (i) those carrying on the business of banking and; (ii) those providing credit facilities to its members.

20. In *Kerala State Coop. Mktg. Federation Ltd. v. CIT* [1998] 5 SCC 48, this Court, while dealing with classes of societies covered by section 80-P of the Act, held as follows:

"6. The classes of societies covered by section 80-P of the Act are as follows:

(a) engaged in business of banking and providing credit facilities to its members;

** ** *

7. We may notice that the provision is introduced with a view to encouraging and promoting growth of cooperative sector in the economic life of the country and in pursuance of the declared policy of the Government. The correct way of reading the different heads of exemption enumerated in the section would be to treat each as a separate and distinct head of exemption. Whenever a question arises as to whether any particular category of an income of a cooperative society is exempt from tax what has to be seen is whether income fell within any of the several heads of exemption. If it fell within any one head of exemption, it would be free from tax notwithstanding that the conditions of another head of exemption are not satisfied and such income is not free from tax under that head of exemption."

21. In CIT v. Punjab State Coop. Bank Ltd. [2008 SCC OnLine P&H 2042], while dealing with an identical issue, the High Court of Punjab and Haryana held as follows:

"8. The provisions of section 80-P were introduced with a view to encouraging and promoting the growth of the cooperative sector in the economic life of the country and in pursuance of the declared policy of the Government. The different heads of exemption enumerated in the section are separate and distinct heads of exemption and are to be treated as such. Whenever a question arises as to whether any particular category of an income of a cooperative society is exempt from tax, then it has to be seen whether such income fell within any of the several heads of exemption. If it fell within any one head of exemption...It means that a cooperative society engaged in carrying on the business of banking and a cooperative society providing credit facilities to its members will be entitled for exemption under this sub-clause. The carrying on the business of banking by a cooperative society or providing credit facilities to its members are two different types of activities which are covered under this sub-clause.

** ** *

13. So, in our view, if the income of a society is falling within any one head of exemption, it has to be exempted from tax notwithstanding that

the condition of other heads of exemption are not satisfied. A reading of the provisions of section 80-P of the Act would indicate the manner in which the exemption under the said provisions is sought to be extended. Whenever the legislature wanted to restrict the exemption to a primary cooperative society, it was so made clear as is evident from clause (f) with reference to a milk cooperative society that a primary society engaged in supplying milk is entitled to such exemption while denying the same to a federal milk cooperative society."

The aforesaid judgment of the High Court correctly analyses the provisions of section 80-P of the Act and it is in tune with the judgment of this Court in Kerala State Coop. Mktg. Federation Ltd. [(1998) 5 SCC 48]

22. With the insertion of sub-section (4) by the Finance Act, 2006, which is in the nature of a proviso to the aforesaid provision, it is made clear that such a deduction shall not be admissible to a cooperative bank. However, if it is a primary agricultural credit society or a primary cooperative agricultural and rural development bank, the deduction would still be provided. Thus, cooperative banks are now specifically excluded from the ambit of section 80-P of the Act.

23. Undoubtedly, if one has to go by the aforesaid definition of "cooperative bank", the appellant does not get covered thereby. It is also a matter of common knowledge that in order to do the business of a cooperative bank, it is imperative to have a licence from Reserve Bank of India, which the appellant does not possess. Not only this, as noticed above, Reserve Bank of India has itself clarified that the business of the appellant does not amount to that of a cooperative bank. The appellant, therefore, would not come within the mischief of sub-section (4) of section 80-P.

24. So far so good. However, it is significant to point out that the main reason for disentitling the appellant from getting the deduction provided under section 80-P of the Act is not sub-section (4) thereof. What has been noticed by the assessing officer, after discussing in detail the activities of the appellant, is that the activities of the appellant are in violation of the provisions of MACSA under which it is formed. It is pointed out by the assessing officer that the assessee is catering to two distinct categories of people. The first category is that of resident members or ordinary members. There may not be any difficulty as far as this category is concerned. However, the assessee

had carved out another category of "nominal members". These are those members who are making deposits with the assessee for the purpose of obtaining loans, etc. and, in fact, they are not members in real sense. Most of the business of the appellant was with this second category of persons who have been giving deposits which are kept in fixed deposits with a motive to earn maximum returns. A portion of these deposits is utilised to advance gold loans, etc. to the members of the first category. It is found, as a matter of fact, that the depositors and borrowers are quite distinct. In reality, such activity of the appellant is that of finance business and cannot be termed as cooperative society. It is also found that the appellant is engaged in the activity of granting loans to general public as well. All this is done without any approval from the Registrar of the Societies. With indulgence in such kind of activity by the appellant, it is remarked by the assessing officer that the activity of the appellant is in violation of the Cooperative Societies Act. Moreover, it is a cooperative credit society which is not entitled to deduction under section 80-P(2)(a)(i) of the Act.

25. It is in this background, a specific finding is also rendered that the principle of mutuality is missing in the instant case. Though there is a detailed discussion in this behalf in the order of the assessing officer, our purpose would be served by taking note of the following portion of the discussion:

"As various courts have observed that the following three conditions must exist before an activity could be brought under the concept of mutuality:

- (i) that no person can earn from him;
- (ii) that there a profit motivation;
- (iii) and that there is no sharing of profit.

It is noticed that the fund invested with bank which are not member of association welfare fund, and the interest has been earned on such investment for example, ING Mutual Fund [as said by the MD vide his statement dated 20-12-2010]. [Though the bank formed the third party vis-à-vis the assessee entitled between contributor and recipient is lost in such case. The other ingredients of mutuality are also found to be missing as discussed in further paragraphs.]

In the present case both the parties to the transaction are the contributors towards surplus, however, there are no participators in the surpluses. There is no common consent of whatsoever for participators as their identity is not established. Hence, the assessee fails to satisfy the test of mutuality at the time of making the payments the number in referred as members may not be the member of the Society as such the AOP body by the Society is not covered by concept of mutuality at all."

26. These are the findings of fact which have remained unshaken till the stage of the High Court. Once we keep the aforesaid aspects in mind, the conclusion is obvious, namely, the appellant cannot be treated as a cooperative society meant only for its members and providing credit facilities to its members. We are afraid such a society cannot claim the benefit of Section 80-P of the Act."

21. An analysis of this judgment would show that the question of law that was reflected in paragraph 5 of the judgment was answered in favour of the assessee. The following propositions may be culled out from the judgment:

(I) **That section 80P of the IT Act is a benevolent provision, which was enacted by Parliament in order to encourage and promote the growth of the co-operative sector generally in the economic life of the country and must, therefore, be read liberally and in favour of the assessee;**

(II) That once the assessee is entitled to avail of deduction, the entire amount of profits and gains of business that are attributable to any one or more activities mentioned in sub-section (2) of section 80P must be given by way of deduction;

(III) That this Court in Kerala State Cooperative Marketing Federation Ltd. (supra) has construed section 80P widely and liberally, holding that if a society were to avail of several heads of deduction, and if it fell within any one head of deduction, it would be free from tax notwithstanding that the conditions of another head of deduction are not satisfied;

(IV) This is for the reason that when the legislature wanted to restrict the deduction to a particular type of co-operative society, such as is evident from section 80P(2)(b) qua milk co-operative societies,

the legislature expressly says so - which is not the case with section 80P(2)(a)(i);

(V) That section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2). This proviso specifically excludes only co-operative banks, which are cooperative societies who must possess a licence from the RBI to do banking business. Given the fact that the assessee in that case was not so licenced, the assessee would not fall within the mischief of section 80P(4).

22. However, considering that the learned Senior Advocate appearing for the Revenue argued that the concurrent findings of fact in that case were that most of the business of the assessee was conducted illegally with nominal members, who could not be members of such society under the Andhra Pradesh Act, and considering also that, as the assessee engaged in granting loans to the general public, it could not be treated as a co-operative society meant only for its members and providing credit facilities to its members, the appeal by the assessee would fail. It is important to note that no argument was made by the counsel for the assessee in Citizen Cooperative Society Ltd. (supra) that the assessing officer and other authorities under the IT Act could not go behind the registration of the co-operative society in order to discover as to whether it was conducting business in accordance with its bye-laws."

11. The Honourable Supreme court further held that :-

27. However, this does not conclude the issue in the present case. We now turn to the proper interpretation of section 80P of the Income-tax Act. Firstly, the marginal note to section 80P which reads "Deduction in respect of income of co-operative societies" is important, in that it indicates the general "drift" of the provision. This was so held by this Court in K.P. Varghese v. ITO [1981] 7 Taxman 13/131 ITR 597 as follows:

"9. This interpretation of sub-section (2) is strongly supported by the marginal note to Section 52 which reads "Consideration for transfer in cases of understatement". It is undoubtedly true that the marginal note to a section cannot be referred to for the purpose of construing the section but it can certainly be relied upon as indicating the drift of the section or, to use the words of Collins, M.R. in Bushel v. Hammond [1904] 2 KB 563 to show what the section is dealing with. It cannot control the interpretation of the words of a section particularly when the language of the section is clear and unambiguous but, being part of the statute, it prima facie furnishes some clue as to the meaning and purpose of the section (vide Bengal Immunity Company Limited v. State of Bihar [1955] 2 SCR 603)."

28. Secondly, for purposes of eligibility for deduction, the assessee must be a "co-operative society". A co-operative society is defined in Section 2(19) of the IT Act, as being a co-operative society registered either under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies. This, therefore, refers only to the factum of a co-operative society being registered under the 1912 Act or under the State law. For purposes of eligibility, it is unnecessary to probe any further as to whether the co-operative society is classified as X or Y.

29. Thirdly, the gross total income must include income that is referred to in sub-section (2).

30. Fourthly, sub-clause (2)(a)(i) **with which we are directly concerned**, then speaks of a co-operative society being "engaged in" carrying on the business of banking or providing credit facilities to its members. What is important qua sub-clause (2)(a)(i) is the fact that the co-operative society must be "engaged in" the providing credit facilities to its members. As has been rightly pointed out by the learned Additional Solicitor General, the expression "engaged in", as has been held in *CIT v. Ponni Sugars & Chemicals Ltd.* [\[2008\] 174 Taxman 87/306 ITR 392 \(SC\)](#), would necessarily entail an examination of all the facts of the case. This Court in *Ponni Sugars & Chemicals Ltd.* (*supra*) held:

"20. In order to earn exemption under section 80-P(2) a cooperative society must prove that it had engaged itself in carrying on any of the several businesses referred to in sub-section (2). In that connection, it is important to note that under sub-section (2), in the context of cooperative society, Parliament has stipulated that the society must be engaged in carrying on the business of banking or providing credit facilities to its members. Therefore, in each case, the Tribunal was required to examine the memorandum of association, the articles of association, the returns of income filed with the Department, the status of business

indicated in such returns, etc. This exercise had not been undertaken at all."

31. The learned Additional Solicitor General relied upon the second proviso to section 2(oaa) of the Kerala Act, and argued that given the fact that the principal object in most, if not all, of the Appellants before us has not been fulfilled, these Appellants have lost all characteristics of being primary agricultural credit societies. In answer to this submission, learned counsel for the Appellants cited the following judgments, namely, Asstt. CIT v. A.K. Menon [\[1995\] 5 SCL 319 \(SC\)](#) (paragraph 4); Titan Medical Systems (P.) Ltd. v. Collector of Customs [2003 taxmann.com 2027 \(SC\)](#) (paragraph 12); and Vadilal Chemicals Ltd. v. State of Andhra Pradesh [2006 taxmann.com 2217 \(SC\)](#) (paragraphs 20 to 23), for the proposition that it is the RBI alone under the Banking Regulation Act, 1949, and the Registrar alone under the Kerala Act who can look into questions as to whether a primary agricultural credit society is, or is not, a co-operative bank, and whether a society's classification as primary agricultural credit society ought to continue or be re-classified as a co-operative bank. Neither argument applies to the facts of these cases, given that the statutory provision involved does not require the Appellants to be primary agricultural credit societies to claim a deduction under section 80P(2)(a)(i) in the first place.

32. Fifthly, as has been held in Udaipur Sahkari Upbhokta Thok Bhandar Ltd. v. CIT [2009] 8 SCC 393 at paragraph 23, the burden is on the assessee to show, by adducing facts, that it is entitled to claim the deduction under section 80P. Therefore, the assessing officer under the Income-tax Act cannot be said to be going behind any registration certificate when he engages in a fact-finding enquiry as to whether the co-operative society concerned is in fact providing credit facilities to its members. Such fact finding enquiry (see section 133(6) of the Income-tax Act) would entail examining all relevant facts of the co-operative society in question to find out whether it is, as a matter of fact, providing credit facilities to its members, whatever be its nomenclature. Once this task is fulfilled by the assessee, by placing reliance on such facts as would show that it is engaged in providing credit facilities to its members, the assessing officer must then scrutinize the same, and arrive at a conclusion as to whether this is, in fact, so.

33. Sixthly, what is important to note is that, as has been held in Kerala State Cooperative Marketing Federation Ltd. (supra) the expression "providing credit facilities to its members" does not necessarily mean agricultural credit alone. Section 80P being a beneficial provision must be construed with the object of furthering the co-operative movement generally, and section 80P(2)(a)(i) must be contrasted with section 80P(2)(a)(iii) to (v), which expressly speaks of agriculture. It must also further be contrasted with sub-clause (b), which speaks only of a "primary" society engaged in

*supplying milk etc. thereby defining which kind of society is entitled to deduction, unlike the provisions contained in section 80P(2)(a)(i). Also, the proviso to section 80P(2), when it speaks of sub-clauses (vi) and (vii), further restricts the type of society which can avail of the deductions contained in those two sub-clauses, unlike any such restrictive language in section 80P(2)(a)(i). Once it is clear that the co-operative society in question is providing credit facilities to its members, the fact that it is providing credit facilities to non-members does not disentitle the society in question from availing of the deduction. The distinction between eligibility for deduction and attributability of amount of profits and gains to an activity is a real one. **Since profits and gains from credit facilities given to non-members cannot be said to be attributable to the activity of providing credit facilities to its members, such amount cannot be deducted.***

34. Seventhly, section 80P(1)(c) also makes it clear that section 80P is concerned with the co-operative movement generally and, therefore, the moment a co-operative society is registered under the 1912 Act, or a State Act, and is engaged in activities which may be termed as residuary activities i.e. activities not covered by sub-clauses (a) and (b), either independently of or in addition to those activities, then profits and gains attributable to such activity are also liable to be deducted, but subject to the cap specified in sub-clause (c). The reach of sub-clause (c) is extremely wide, and would include co-operative societies engaged in any activity,

completely independent of the activities mentioned in sub-clauses (a) and (b), subject to the cap of INR 50,000/- to be found in sub-clause (c)(ii). This puts paid to any argument that in order to avail of a benefit under section 80P, a cooperative society once classified as a particular type of society, must continue to fulfil those objects alone. If such objects are only partially carried out, and the society conducts any other legitimate type of activity, such co-operative society would only be entitled to a maximum deduction of Rs. 50,000/- under sub-clause (c).

35. Eighthly, sub-clause (d) also points in the same direction, in that interest or dividend income derived by a co-operative society from investments with other co-operative societies, are also entitled to deduct the whole of such income, the object of the provision being furtherance of the co-operative movement as a whole.”

[underline, emphasis supplied by us]

12. Thus, the verdict of the Hon'ble Supreme Court in this case is very clear and is the law of the land. It is held that object of the provision of section 80 p is the furtherance of cooperative movement. Therefore, it cannot be said that one Act i.e., Karnataka State Cooperative Societies Act 1959, directs the cooperative societies to maintain fund with the institutions for carrying on its activities and the income tax Act denies the deductions holding that it is not business activity of the assessee and interest so earned is not the income attributable to the activities of the assessee.

13. It is not in dispute before us then the income earned by the assessee from investment in the bank is earned from the statutory investment made by the assessee with the other cooperative banks in terms of the provisions of the governing act of the Karnataka State Cooperative Societies Act, 1959. The issue is not that the idle funds have been invested by the assessee and therefore the deduction is eligible to the assessee or not is a question under section 80P(2)(d) of the Act, therefore such income cannot be taxed under the head income from other sources.
14. According to the provisions of section 80 P (2) the whole of the amount of profits and gains of business activity to any or more of more of such activities is eligible for deduction. In this case it is not the claim of the revenue that the interest income on by the assessee is not attributable to the activities of the assessee as specified.
15. The decision of the Hon'ble Karnataka High Court is on the issue of deduction under section 80 P (2) (d) of the Act whereas the issue before us is deduction of interest income which is attributable to the business of the assessee allowable under section 80 P (2) (a) (i) of the Act. Further we have relied upon the decision of the Hon'ble Supreme Court which is held that provisions of section 80P of the Act are beneficial, should be interpreted liberally and in favour of the assessee.
16. The Coordinate bench in ITA No.1724/Bangalore/2019 dated 22/11/2021 for assessment year 2014 – 15 has also taken this view.

17. In view of the above facts we do not find any reason to uphold the orders of the learned lower authorities in denying the deduction under section 80P(2)(a)(i) of the Act of ₹ 470,921/-. Accordingly the appeal of the assessee is allowed and the learned assessing officer is directed to grant deduction of ₹ 470,921/- to the assessee under section 80P(2)(a) (i) of the Act.

18. In the result appeal of the assessee is allowed.

Pronounced in the open court on this 30th day of September, 2025.

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 30th September, 2025.

/Desai S Murthy /

Copy to:

1. Appellant 2. Respondent 3. Pr. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.