

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2622/Mum/2025
(Assessment Year: 2020-21)

Vasai Urban Cooperative Credit Society Ltd. 1 st Floor, Shree Ganesh Building, Opp. S.T. Depot, Tal-Vasai, Dist. Palghar, Vasai – Virar, Maharashtra – 401201.	Vs.	Principal Commissioner of Income Tax -1, Thane
PAN/GIR No. AAAAV1341E		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Bhupendra Shah
Respondent by	:	Shri Vivek Perampurna (CIT-DR)

Date of Hearing	:	10.07.2025
Date of Pronouncement	:	01.10.2025

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Principal Commissioner of Income Tax, Thane – 1 ('Id. PCIT' for short), passed u/s. 263 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2020-21.

2. The assessee has raised the following grounds of appeal:

“[A] Grounds of Appeal:

1. In the facts of the case and in Law, the learned CIT erred in invoking Section 263 to the case of the Appellant only by way of change of opinion, without pointing out any error in the order of the A.O. and also by disregarding detailed submissions made to him from time to time.



2. In the facts of the case and in Law, the Show Cause Notice & or order u/s 263 alleging errors and prejudice, itself is erroneous on many counts as follows.

a. In the facts of the case and in Law, the learned CIT has erred in invoking the provision of sec. 263 merely because he wants to take a view different from the one taken by the Assessing Officer and thereby changing the opinion of the Assessing Officer by his/her opinion.

b. In the facts of the case and in Law, the learned CIT has erred in holding that Assessing Officer failed to verify the claim of the Appellant u/s 80P(2)(d) in respect of interest income of Rs. 96,32,202// on from investments made with Cooperative Banks and claimed deduction thereof u/s. 80P(2)(d) of the Act even though all the details were furnished to the Assessing Officer.

c. In the facts of the case and in Law, the learned CIT has erred in disregarding the fact that similar deduction was already allowed in scrutiny assessment in earlier years as well..

d. In the facts of the case and in Law, the learned CIT has erred in disregarding the fact that the deduction granted in initial year cannot be withdrawn in subsequent years on the same fact..

e. Overlooking order of ITAT in our own case for AY 18-19 thereby causing non observance of judicial discipline

[B] Relief Prayed:

The appellant therefore prays as follows,

1. To quash the order u/s 263 of the Act.

2. To drop the disallowance of deduction claimed of interest income of Rs. 96,32,202// u/s 80P(2)(d) of the Act.

[C] General: -

The appellant reserve rights to add alter or delete any portion of this appeal before its conclusion.

This appeal is filed on time and the same may please be allowed in full.

A Detailed paper book along with case laws will be submitted at the time of hearing.”



3. Brief facts of the case are that the assessee is a co-operative society and had filed its returns of income for the year under consideration, dated 22.12.2021, declaring total income at Rs. Nil. The assessee's case was selected for scrutiny through CASS and assessment order dated 02.09.2022 was passed u/s. 143(3) r.w.s. 144B of the Act, where the Id. AO accepted the returned income filed by the assessee.
4. The Id. PCIT invoked the revisionary jurisdiction u/s. 263 of the Act for the reason that the assessee had earned interest income of Rs. 2,68,87,080/- out of the normal banking business of providing credit facility to its members and also credit interest income out of the deposits/investments and had also claimed an amount of Rs. 96,32,202/- as deduction u/s. 80P(2)(d) of the Act. The Id. PCIT held that the assessment order was passed without application of mind and without detailed enquiry with regard to the claim of deduction u/s. 80P(2) of the Act which according to the Id. PCIT is against the proposition laid down by the Hon'ble Apex Court in the case of ***Totgar's Co-operative Sale Society vs. Income Tax Officer, Karnataka, (2010) 322 ITR 283 (SC)***, and thereby holding the assessment order is not said to be erroneous in so far as it is prejudicial to the interest of the revenue. The Id. PCIT set aside the impugned assessment order with a direction to disallow amount of Rs. 96,32,202/- claimed by the assessee u/s. 80P(2) of the Act and taxed the same u/s. 56 of the Act under the head 'income from other sources' and to pass a *de novo* assessment order.
5. Aggrieved the assessee is in appeal before us, challenging the order of the Id. PCIT.
6. We have heard the rival submissions and perused the materials available on record. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that



the issue in hand is recurring in nature and that the coordinate bench in assessee's case for A.Y. 2018-19 had decided the issue in favour of the assessee in ITA No. 1507/Mum/2024, vide order dated 25.07.2024. The ld. AR further contended that the ld. AO has enquired into this issue and had taken one of the plausible view and hence, the assessment order is not said to be erroneous in so far as it is prejudicial to the interest of the revenue.

7. The learned Departmental Representative ('ld. DR' for short) for the revenue on the other hand controverted the said fact and relied on the order of the ld. PCIT.
8. Upon perusal of the rival contentions, it is observed that the assessee has earned interest income on investment from co-operative banks which details are tabulated herein under:

<i>Particulars</i>	<i>Interest Amount</i>
<i>Vasai Vikas Sahakari Bank</i>	<i>37,76,693</i>
<i>Vasai Janta Sahakari Bank</i>	<i>28,88,976</i>
<i>Bassein Catholic Co-op. Bank</i>	<i>25,62,021</i>
<i>New India Co-op. Bank Ltd.</i>	<i>36,82,981</i>
<i>Model Co-op. Bank Ltd.</i>	<i>2,09,423</i>
<i>Total (Rs.)</i>	<i>1,31,20,094</i>

9. It is observed that these co-operative banks are registered as co-operative societies. The ld. PCIT observed that the assessee has received interest of Rs. 96,32,202/- from investments made with the co-operative banks and had claimed deduction u/s. 80P(2)



of the Act on the same. During the assessment proceeding, it is observed that the ld. AO had issued notice u/s. 142(1) of the Act, dated 18.11.2021, seeking for details pertaining to the assessee's claim of deduction u/s. 80P along with supporting documentary evidences for which the assessee vide its submission is said to have provided with the information sought for by the ld. AO. The ld. AO then passed the assessment order accepted the returned income filed by the assessee. The ld. AR extensively relied on the decision of the coordinate bench in assessee's own case for A.Y. 2018-19, where the coordinate bench has held that the assessee was entitled to deduction claimed u/s. 80P(2)(d) pertaining to the interest earned from the co-operative banks. The coordinate bench further held that on this ground the assessment order was not to be held erroneous in so far as it is prejudicial to the interest of the revenue by relying on the decision of the Hon'ble Apex Court in the case of **Malabar Industrial Co. Ltd. v. CIT (2000) 243 ITR 83 (SC)**. The relevant extract of the said decision is cited herein under for ease of reference:

11. In the present case, there is no dispute that the assessee is a Co-operative Credit Society, which is engaged in accepting deposits from the customers and gives loans to its members only. Thus, if any income as referred to in sub-section (2) to section 80P of the Act is included in the gross total income of the assessee, the same shall be allowed as a deduction. It is pertinent to note that since the assessee is registered under the Maharashtra Co-operative Societies Act, 1960, it is required to invest or deposit its funds in one of the modes provided in section 70 of the aforesaid Act, which includes investment or deposit of funds in the District Central Co-operative Bank or the State Co-operative Bank. Accordingly, the assessee kept the deposits in District Central Co-operative Banks and earned interest, which was claimed as a deduction under section 80P(2)(d) of the Act. It is pertinent to note that the Hon'ble Supreme Court in Mavilayi Service Co-operative Bank Ltd. v/s CIT, Calicut, [2021] 431 ITR 1 (SC) while analysing the provisions of section 80P(4) of the Act held that section 80P(4) is a proviso to the main provision contained in section 80P(1) and (2) and excludes only Co-operative Banks, which are Co-operative Societies and also possesses a licence from RBI to do banking business. The Hon'ble Supreme



Court further held that the limited object of section 80P(4) is to exclude Co-operative Banks that function at par with other commercial banks i.e. which lend money to members of the public. Thus, we are of the considered view that section 80P(4) of the Act is of relevance only in a case where the assessee, who is a Co-operative Bank, claims a deduction under section 80P of the Act. We also find that in *PCIT v/s Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd.* [2023] 150 taxmann.com 173 (SC), the Hon'ble Supreme Court held that a taxpayer who is merely giving credit to its members cannot be said to be the Co-operative Banks/Banks under the Banking Regulation Act and the banking activities under the Banking Regulation Act are altogether different. Therefore, the Hon'ble Supreme Court held that the assessee, a co-operative credit society, could not be termed a bank/Co-operative Bank and that being a credit society, it was entitled to exemption under section 80(P)(2) of the Act. Therefore, we find no merits in the aforesaid reasoning adopted by the learned PCIT vide impugned order passed under section 263 of the Act. As regards the claim of deduction under section 80P(2)(d) of the Act, it is also pertinent to note that all Co-operative Banks are Co-operative Societies but vice versa is not true.

12. We find that the coordinate benches of the Tribunal have consistently taken a view in favour of the assessee and held that even the interest earned from the Co-operative Banks is allowable as a deduction under section 80P(2)(d) of the Act. We find that the coordinate bench of the Tribunal in *Jansevak Co-operative Society Ltd. vs ITO*, in ITA Nos. 3229 & 3230/Mum./2022, vide order dated 23/02/2023 allowed the deduction claimed by the assessee under section 80P(2)(d) of the Act, by observing as under:-

"7. Hon'ble High Court of Karnataka in case of *Pr. CIT & Anr. Vs. Totgar's Co-operative Sale Society Ltd.* (2017) 292 ITR 74 (Kar.) and Hon'ble Gujarat High Court in case of *State Bank of India vs. CIT* (2016) 389 ITR 578 (Guj.) had also held that interest Income earned by a co-operative society on its investment held with co-operative bank would be eligible for claim of deduction under section 80P(2)(d) of the Act. We are of the considered view that the Ld. CIT(A) has erred in upholding the denial of deduction by the AO to the assessee under section 80P(2)(d) of the Act.

8. So following the decision rendered by Hon'ble Karnataka High Court (*supra*) and Hon'ble Gujarat High Court (*supra*) and order passed by the coordinate Bench of the Tribunal discussed in preceding paras, we are of the considered view that assessee society who has earned an amount of Rs. 16,76,460 and Rs.87,93,570/-for A.Y. 2013-14 and A.Y. 2018-19 respectively from its investment of surplus fund parked with co-operative banks is entitled for deduction under section 80P(2)(d) of the Act.

9. In view of what has been discussed above, we are of the considered view that the Ld. CIT(A) has erred in upholding the denial of deduction by the AO to the assessee



society claimed under section 80P(2)(d) of the Act, hence, AO is directed to allow the same."

13. Therefore, in view of the above, we are of the considered view that the AO has rightly allowed the claim of deduction under section 80P(2)(d) of the Act in respect of the interest earned from the Co-operative Banks and thus the assessment order cannot be held to be erroneous. The Hon'ble Supreme Court in Malabar Industrial Co. Ltd. v/s CIT, [2000] 243 ITR 83 (SC) held that in order to invoke section 263, the assessment order must be erroneous and also prejudicial to revenue, and if one of them is absent, i.e., if the order of the Income-tax Officer is erroneous but is not prejudicial to Revenue or if it is not erroneous but is prejudicial to Revenue, recourse cannot be had to section 263 of the Act. Since both the conditions for invoking the provisions of section 263 of the Act are not satisfied in the present case, therefore the impugned order passed by the learned PCIT under section 263 of the Act is quashed. Accordingly, the grounds raised by the assessee are allowed.

14. In the result, the appeal by the assessee allowed."

10. With no change in facts and circumstances in the present appeal, we deem it fit to hold that the issue is squarely covered by the decision of the coordinate bench in assessee's own case for earlier years and by respectfully following the same, we find no justification in upholding the order of ld. PCIT passed u/s. 263 of the Act. The ground of appeal raised by the assessee is hereby allowed.

11. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 01.10.2025

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 01.10.2025
Karishma J. Pawar (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned



ITA No. 2622/Mum/2025 (A.Y. 2020-21)
Vasai Urban Cooperative Credit Society Ltd.

4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai