

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.908/PUN/2025
निर्धारण वर्ष / Assessment Year : 2020-21**

Sar Senapati Umabai Dabhade Nagari Sahakari Patsanstha Maryadit, 1179 Mangalwar Peth, Chakan Road, Takuka-Maval, Dist.-Pune-410507 PAN : AADAS0815P	Vs.	The Pr. CIT, Pune-3
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Sanjay S. Suryawanshi
Department by :	Shri Amit Bobde
Date of hearing :	13-08-2025
Date of Pronouncement :	31-10-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 11.03.2025 of the Ld. Principal Commissioner of Income Tax, Pune-3 (“PCIT”) passed u/s 263 of the Income Tax Act, 1961 (the “Act”) pertaining to Assessment Year (“AY”) 2020-21.

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

- “1. The learned Principal Commissioner of Income Tax (PCIT) erred in invoking jurisdiction under section 263 of the Income Tax Act, 1961, and passing the revisionary order, despite the fact that the assessment order dated 31/08/2022 was neither erroneous nor prejudicial to the interest of revenue.
2. The learned PCIT erred in holding that the Assessing Officer (AO) failed to examine the eligibility of the appellant's claim for deduction under section 80P(2)(a) and 80P(2)(d) without appreciating that the AO had duly considered and allowed the deduction after due verification.
3. The learned PCIT erred in setting aside the assessment order without demonstrating any specific error in the AO's order that would render it erroneous and prejudicial to the interest of revenue.
4. The learned PCIT erred in disregarding binding judicial precedents, including decisions of the Hon'ble ITAT Pune and Mumbai, which have held that interest income earned from cooperative banks qualifies for deduction under section 80P(2)(d).

5. *The learned PCIT erred in relying upon the decision of the Hon'ble Supreme Court in the case of Totgars Cooperative Sales Society Ltd. (322 ITR 283) without distinguishing the factual differences between the appellant's case and the said decision.*
6. *That the Ld. PCIT failed to consider the jurisdictional ITAT Pune Bench's decision in ITA No. 743/PUN/2024 in the case of Talegaon Nagari Sahakari Patsanstha Limited, which held that interest income earned by a co-operative credit society is eligible for deduction under Section 80P(2)(d).*
7. *The learned PCIT erred in not appreciating that the appellant's deposits with cooperative banks were statutory in nature and integral to the business operations, thereby making the interest income eligible for deduction under section 80P(2)(a) and 80P(2)(d).*
8. *Without prejudice, if the interest income is assessed under the head 'Income from Other Sources, the proportionate expenses incurred in earning such income should be allowed as a deduction under section 57 of the Income Tax Act, which was not considered by the learned PCIT.*
9. *The learned PCIT erred in setting aside the assessment order merely on the ground of a different interpretation of law rather than identifying any error apparent on record.*
10. *The appellant reserves the right to add, modify, or alter any grounds of appeal at the time of hearing."*

3. Briefly stated, the facts of the case are that the assessee is a cooperative credit society engaged in providing credit facilities to its members and accepting deposits. For AY 2020-21, the assessee filed its return of income on 29.12.2020, declaring a total income of Rs. NIL after claiming deduction u/s 80P of the Income Tax Act, 1961 (**the "Act"**). The return was initially processed u/s 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny under CASS under the E-assessment Scheme, 2019 for the reasons : (i) Low income in comparison to very high investments appearing in balance sheet; (ii) High liabilities as compare to low income/receipts; (iii) Large commission expenses and low net profit and (iv) Low income (including exempt income and agricultural income in comparison to high loans/advances/investment in shares appearing in balance sheet. Accordingly, statutory notice(s) u/s 143(2) and 142(1) of the Act were issued and served upon the assessee. In response thereto, the assessee furnished the requisite details/documents from time to time. The Ld. Assessing Officer (**"AO"**) after verification of the details/documents furnished by the assessee and perusal of the submissions made by the assessee, accepted the "Nil" income returned by the assessee thereby allowing the deduction u/s 80P of the Act vide his order dated 31.08.2022 passed u/s 143(3) r.w.s. 144B of the Act.

4. Thereafter, the Ld. PCIT invoked section 263 of the Act. The Ld. PCIT on perusal of the assessment record noted that the assessee has made investments with Co-operative Banks and has earned interest income of Rs.56,92,461/- on these investments which has been claimed as deduction u/s 80P of the Act. The Ld. AO has allowed the said deduction claimed by the assessee. According to the Ld. PCIT, as per the provisions of section 80P(2)(a) of the Act, there are different situations in which the claim of deduction can be allowed. As per the provisions of Sec. 80P(2)(a) deduction will be allowable to an assessee being a cooperative society, if it is deriving income from business of banking or providing credit facilities to its members. In the present case, the Ld. AO has not conducted any enquiry to determine whether the interest income earned by the assessee is related to its core business or is a residuary income which is required to be taxed under the head 'Income from Other Sources'. Similarly, as per the provisions of section 80P(2)(d), interest income earned by a cooperative society will be eligible for deduction only from its investments with another cooperative society. He noted that although the case of the assessee was selected for scrutiny to examine the claim of deduction under Chapter VI-A and there is a landmark judgment of Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. vs. ITO (2010) 322 ITR 283 (SC) in which it has been held that the interest income, which has been earned by investing surplus funds, would come in the category of 'Income from other sources' taxable u/s 56 and would not qualify for deduction as business income u/s 80P(2)(a), however, the Ld. AO has prima facie not considered the judgment. Similarly, on the issue of section 80P(2)(d), there is a judgment of Hon'ble Karnataka High Court in the case of PCIT Vs. Totgars Co-operative Sales Society Ltd. (2017) 395 ITR 611 (Kar) which clearly states that a cooperative society would not be eligible for deduction u/s 80P(2)(d) on the interest income earned by it on account of deposit of its surplus funds in a cooperative bank. However, the Ld. AO has passed the order without examining the eligibility of the assessee for claim of deduction under the provisions of section 80P(2)(a) or section 80P(2)(d). Therefore, the order of the Ld. AO has prima facie become erroneous and prejudicial to the interest of revenue. He, therefore, issued a show cause notice u/s 263 of the Act on 18.02.2025 to the assessee. In response to the said notice, the assessee submitted its reply raising the following contentions, the relevant extract of which is reproduced below :

“1. Background of the Assessee:

The assessee is a co-operative credit society registered under the Maharashtra Co-operative Societies Act, engaged in providing credit facilities to its members and accepting deposits from them. The assessee filed its return of income for A.Y. 2020-21 on 29/12/2020, declaring a total income of Rs. Nil after claiming a deduction under Section 80P of the Income Tax Act. The return was processed under Section 143(1) and later scrutinized under Section 143(3) r.w.s. 1448, accepting the total income at Rs. Nil.

2. Assessment Proceedings & Allowance of Deduction u/s 80P:

a) The Assessing Officer (AO) had examined the assessee's claim of deduction under Chapter VIA, particularly Section 80P, as part of the scrutiny assessment.

b) The AO had verified the investments, interest income, and the eligibility of the deduction before passing the assessment order under Section 143(3).

c) The deduction was allowed in line with the statutory provisions, and no adverse findings were recorded in the assessment order.

3. Disagreement with the Invocation of Section 263:

a) No Error or Prejudice to Revenue: The assessment order cannot be deemed "erroneous and prejudicial to the interest of revenue" merely because the Principal Commissioner holds a different interpretation of Section 80P. The AO had applied his mind and allowed the deduction after due verification.

b) Judicial Precedents in Favor of the Assessee: Several judgments, including those of the Hon'ble ITAT Mumbai & Pune Benches, support the claim that interest income earned from deposits with co-operative banks qualifies for deduction under Section 80P(2)(d).

- Talegaon Nagari Sahakari Patsanstha Limited Vs. ITO (ITA No. 743/PUN/2024) The Hon'ble ITAT Pune Bench's ruled in favor of the assessee which held that interest income earned by a co-operative credit society is eligible for deduction under Section 80P(2)(d).
- Lands End Co-operative Housing Society Ltd. vs. ITO (ITA No. 3566/Mum/2014 dated 15.01.2016) The Hon'ble ITAT held that deduction under Section 80P(2)(d) is allowable for interest earned on deposits with co-operative banks.
- Rena Sahakari Karkhana Ltd. (ITA No. 1249/PUN/2018 dated 07.01.2022) The Hon'ble ITAT Pune held that even after the introduction of Section 80P(4), a co-operative bank remains a co-operative society, making its interest income eligible for deduction under Section 80P(2)(d).
- Prerna Co-op Society vs. ITO (ITA No. 3566/Mum/2014 dated 03.12.2018) The Hon'ble ITAT Mumbai ruled in favor of the assessee, allowing deduction under Section 80P(2)(d) on interest income from co-operative banks.

4. Alternate Claim under Section 57 of the Act:

If the interest income is to be assessed under Income from Other Sources (Section 56), the proportionate expenses incurred for earning such income must be allowed as a deduction under Section 57. The Hon'ble Karnataka High Court in Tumkur Merchants Souharda Credit Co-operative Ltd. ruled that the net interest income after deducting relevant expenses should be considered for taxation.

Total investment of unutilized funds due to statutory compliance of the Co-operative Act amounts to Rs. 7,76,37,568/-.

Expenditure Incurred on this deposit includes:

- Interest paid on deposits @ 7%: Rs. 62,11,005/-
- Administrative expenses @ 1%: Rs. 7,76,375/-

Total Expenditure on Unutilized Funds: Rs. 69,87,381/-

Income from interest on unutilized funds: Rs. 56,92,461/-

Since the expenditure incurred on maintaining unutilized funds exceeds the interest earned, this results in a net loss on unutilized funds. This further strengthens our claim that no addition should be made under Section 56, as the net effect is negative.

Conclusion & Request for Relief:

- The assessment order was passed after due verification and cannot be deemed erroneous or prejudicial to revenue under Section 263.
- Judicial precedents support the claim for deduction under Section 80P(2)(d).
- if the interest income is assessed under Section 56, then Section 57 deductions must be allowed.
- We respectfully request you to drop the revision proceedings under Section 263 and allow the deduction as per law.

We trust that our submission clarifies our position. We request you to kindly consider the above facts and grant appropriate relief to the assessee.”

5. Despite the above submission/contention(s) of the assessee, the Ld. PCIT held the order passed by the Ld. AO as erroneous in so far as it is prejudicial to the interest of revenue by invoking the provisions of section 263 of the Act, by observing as under :

“7. I have carefully gone through the facts of the case, material placed on record and the written reply filed by the assessee. The main argument of the assessee is that the AO had verified the investments, interest income, and the eligibility of the deduction before passing the assessment order under Section 143(3) and therefore, there was no scope for the PCIT to exercise the revisionary jurisdiction u/s.263 of the Act. Further, the assessee has also placed reliance on the various decisions of the Pune Tribunal to argue that such interest is eligible for deduction u/s.80P(2)(d) of the Act.

7.1 In this context, it needs to be noted that Sec. 80P(2)(a) (i) provides for deduction to a cooperative society in respect of income derived by it from the business of banking or providing credit facilities to its members. Thus, what is sought to be given under the said provision is only the profit attributable to the core business of banking or providing credit facilities to its members. When the assessee gets deposits from its members and provides credit facilities again to its members, then what is left with it for investment is surely the surplus which is not required. Investing such surplus money, which is not immediately required for the business purposes and earning of interest on such investments cannot be said to be attributable to the core

business of 'banking or providing credit facilities to its members'. The Hon'ble Supreme Court of India in the case of Totgars Co-operative Sales Society Ltd. Vs. ITO, (SC) (322 ITR 283) (2010) has held that the interest income which has been earned by investing surplus funds would come in the category of 'Income from other sources' taxable u/s 56 of the Act and would not qualify for deduction as business income u/s 80P(2)(a) of the Act. In the case, the Hon'ble Apex Court has stated inter-alia that –

"The words "the whole of the amount of profits and gains of business" emphasise that the income in respect of which deduction is sought must constitute the operational income and not the other income which accrues to the Society. In this particular case, the evidence shows that the assessee-Society earns interest on funds which are not required for business purposes at the given point of time. Therefore, on the facts and circumstances of this case, in our view, such interest falls in the category of "other Income" which has been rightly taxed by the Department under section 56 of the Act.

8. As regards the claim of the assessee regarding admissibility of deduction w/s. 80P(2)(d) of the Act, it may be mentioned that a plain reading of the Sec. 80P(2)(d) of the Act shows that interest income earned by a cooperative society will be eligible for deduction only from its investments with another cooperative society. In the present case, there is no dispute that the impugned interest has been earned on investments made with cooperative banks. When there is no ambiguity in the plain reading of the Sec. 80P(2)(d) of the Act, there cannot be various interpretation. It is a settled principle of law that a plain and unambiguous meaning of legal provision is to be adopted for interpretation. This view has been expressed by the Hon'ble Supreme Court in the case of Prakash Nath Khanna Vs CIT (266/TR1) (SC)[2004] Therefore, the claim of the assessee to treat the Co-operative Bank as Co-operative Society cannot be accepted. Further, the Hon'ble Karnataka High Court again in the case of PCIT Vs. Totgars Co-operative Sales Society Ltd. (395 ITR 611) (2017) held that a co-operative society would not be eligible for deduction u/s 80P(2)(d) on the interest income earned by it on account of deposit of its surplus funds in a co-operative bank. In the said case, it has also been held by the High Court that the banking business, even though run by a Co-operative bank is sought to be excluded from the beneficial provisions of exemption or deduction under section 80P of the Act, by bringing on the statute book sub-section (4) in section 80P_{2} ^ 0 The Court noted that the words used in section 80P(4) are significant which says that 'The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society..... The words 'in relation to can include within its ambit and scope even the interest income earned by the assessee, a co-operative society from a Co-operative Bank. This exclusion by section 80P(4) even though without any amendment in section 80P(2)(d) is sufficient to deny the claim of the assessee for deduction under section 80P(2)(d).

*8.1 Coming to the decisions cited by the assessee of the jurisdictional Tribunal on the issue, with due respect it may be mentioned that as pointed out hereinabove, both the Hon'ble Apex Court and the Hon'ble Karnataka High Court have decide the issue of eligibility of interest income on investments for deduction w / s * 0.8P(2)(a)(i) & 80P(2)(d) of the Act in favour of the Department. Further, adverse decision of the Hon'ble Jurisdictional Tribunal has been further challenged by the Revenue before the Hon'ble Bombay High Court, which is still pending.*

9. In the light of the above position, the AO ought to have tested the admissibility of the deductions claimed by the assessee based on the binding decision of the Apex Court and nature and source of the corresponding investments on which such interest has been derived. Moreover, during the assessment proceedings, the AO has not asked specific questions to the effect as to whether the income in question is business income or not. The provision of Sec. 80P(2)(a) of the Act is meant as a

deduction against business income. So the AO was duty bound to determine by conducting specific enquiry whether the interest income earned by the assessee is related to its core business or is a residuary income which is required to be taxed under the head "income from other sources". Similarly, even under the provision of Sec.80P(2)(d) of the Act interest income earned by a co-operative society will be eligible for deduction only from its investment with another co-operative society. Thus, the AO appears to have allowed the deduction without inquiring into the claim.

10. After the introduction of Explanation 2 to Sec. 263, of the Act it has been made clear as to what kind of assessment order shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue. The Explanation 2 to Sec. 263 is reproduced below :-

"Explanation 2.-For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer [or the Transfer Pricing Officer, as the case may be.] shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or Commissioner,-

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person."

11. From the above cited Explanation which has come into effect from 01.06.2015, it is clear that an assessment order, which has not been passed in accordance with a decision which is prejudicial to the assessee rendered by the Hon'ble Supreme Court, will be deemed to be both erroneous and prejudicial to the interest of revenue. Thus, deduction u/s 80P has been granted without making suitable enquiry and without considering the binding judgment of the Hon'ble Supreme Court of India in the case of Totgars Co-operative Sales Society Ltd. (supra). Therefore, assessment order has been passed in violation of sub-clause (b) and sub-clause (d) of Explanation 2 to Section 263 of the I.T. Act, 1961.

12. In the light of the above facts, I am satisfied that the assessment order dated 31/08/2022 passed for the Assessment Year 2020-21 is erroneous in so far as it is prejudicial to the interest of the Revenue. Consequently, the said assessment order dated 31/08/2022 for the A.Y. 2020-21 is hereby partly set aside to the file of the A.O for the limited purpose of examining the following issues and passing fresh assessment order in the light of enquiries made:

i) The A.O shall examine the eligibility of deduction available to the assessee u/s.80P(2)(a) of the Act in the light of decision of the Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd. Vs. ITO, (SC) (322 ITR 283)(2010)

ii) The A.O shall also examine whether the interest income received by the assessee is related to its core business or is a residual income which is required to be taxed under the head "Other Sources".

iii) The AO shall examine whether the assessee is ineligible for deduction u/s 80P in view of specific provision of section 80P(2) (d) r.w.s section 80P (4) of the Act

13. The Assessing Officer is directed to give adequate opportunity of being heard to the assessee before passing the fresh assessment order.”

6. Aggrieved, by such order of the Ld. PCIT, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

7. The Ld. AR, at the outset, drew our attention to the order of the Ld. AO and submitted that the Ld. AO during the course of assessment proceedings u/s 143(3) of the Act had asked for various details on this issue, in response to which the assessee made elaborate submissions. He further submitted that the issue raised by the Ld. PCIT is covered in favour of the assessee by catena of decisions of the Co-ordinate Bench of the Tribunal. Referring to para 8.1 of the Ld. PCIT's revision order, the Ld. AR submitted that even otherwise also it is a highly debatable issue and the Ld. AO has taken a plausible view, therefore, the Ld. PCIT cannot invoke the jurisdiction u/s 263 of the Act on an issue which has already been examined by the Ld. AO and who has taken a plausible view. In support thereof, the Ld. AR submitted a legal compilation of the following decisions:

- i. Talegaon Nagari Sahakari Patsanstha Limited Vs. ITO, ITA No. 743/PUN/2024 for AY 2020-21, dated 03.06.2024;
- ii. Shreenath Mhaskoba Credit Co-Operative Society Ltd. Vs. PCIT, ITA No. 488/PUN/2025 for AY 2020-21, dated 17.06.2025;
- iii. PCIT Vs. Totagars Co-op Sale Society - 392 ITR 74 (Karnataka), dated 05-01-2017.

8. The Ld. DR, on the other hand, strongly supported the order of the Ld. PCIT contending that the Ld. PCIT is completely justified in assuming the jurisdiction u/s 263 of the Act.

9. We have heard the Ld. Representatives of the parties, perused the material available on record and the paper book filed by the Ld. AR on behalf of the assessee. We have also considered the various decisions cited before us. We find the Ld. PCIT in the instant case assumed jurisdiction u/s 263 of the Act on the ground that the Ld. AO during the course of assessment proceedings, has not asked any specific question to the effect as to whether the interest income in question is business income or not.

Further, according to him, a cooperative bank cannot be treated as cooperative society for the purpose of allowability of deduction u/s 80P(2)(d) of the Act. We find the Assessing Officer during the course of assessment proceedings has examined the issue and has asked the queries to the assessee to which the assessee has responded, the relevant details of which are as under:

4. With respect to investments appearing in balance sheet during the year, kindly provide the following details: (1)

Nature of the asset	Purchase consideration	Date of purchase	Mode of acquisition	Source of funds for investment
1	2	3	4	5

(2) Please furnish the detail of income received on the investment during the year.

(3) Please furnish the detail of assets sold during the year along with calculation of capital gain thereon, if any.

2) Point No. 04:- Details of investments

(1)

<u>Nature of Assets</u>	<u>Purchase Consideration</u>	<u>Date of Purchase</u>	<u>Mode of Acquisition</u>	<u>Source of Funds for investments</u>
1	2	3	4	5
Fixed Deposit With bank	Pune Jilha Bank Non Refindable Deposit Pune Jilha Bank (FD) Janta Bank (FD) Lokseva Bank (FD) PDCC Bank (Insurance Fund) Pune Jilha Bank –Shares Pune Jilha Nagari Sahkari Patsanstha Maharashtra Rajya Sahakari Patsanstha The Seva Vikas Co op Bank (FD) PDCC (Reserve Fund) PDCC (Bad & Doubtfull Debt) PDCC (Fluctution Fund) PDCC (Divident Fund) Sharad Sahkari Bank (FD)			Deposits Received from Members of the Society

Please find enclosed herewith the Ledger Extract of Fixed deposit with Banks

(2) Details of Income Received on Investments

Please find enclosed herewith the Ledger Extract of Interest received on fixed deposits with bank.

10. It is thus clear that the Ld. AO had raised the query on this issue to which the assessee replied. We find that in the assessment order passed u/s 143(3) of the Act, the Ld. AO has accepted the Nil income returned by the assessee observing that “*assessee has, vide submissions dated 01.03.2022, 03.03.2022 and 09.03.2022, stated that it is a Co-operative Society and engaged in the business of accepting deposits of various types i.e fixed deposits, recurring deposits, saving deposits, daily collection deposits etc. from its members. The assessee appoints agents on commission basis for collecting daily collection deposits from members, the assessee paid commission @3% on daily collection amount. It is seen that the assessee is eligible for deduction u/s 80P as the entire amount claimed at Rs. 1,35,74,459/- has been earned from credit facilities to its members. The assessee has submitted copies of some of the loan accounts, agent commission etc. The issues and reasons for which the case of the assessee was selected for scrutiny assessment have been perused and the requisite details/documents furnished by the assessee, have been perused and placed on record. As no adverse inference has been drawn in respect of the reason for selection, the assessment is completed u/s. 143(3) of the Act without making any modification to the total income of Rs. Nil reported by the assessee*”. Hence, in our view, since the Ld. AO in the instant case has made enquiry on the issue and taken a plausible view, therefore, the same cannot be considered as erroneous although it may be prejudicial to the interest of the Revenue.

11. Further, according to Ld. PCIT the act of making deposits out of deposits received from the members cannot be considered to be attributable to the business of providing credit facilities by the assessee to its members and hence placing reliance on the decision of the Hon'ble Supreme Court in the case of Totgar's Cooperative Sale Society Ltd. Vs. ITO (supra) and the Hon'ble High Court of Karnataka in the case of Pr. CIT, Hubali Vs. Totgars Cooperative Sale Society (supra), the Ld. PCIT opined that the interest earned on deposits kept with scheduled banks/co-operative banks cannot be allowed as deduction u/s 80P of the Act and such interest to be brought to tax. Admittedly, the assessee has earned interest income from deposits made with cooperative bank(s) during the relevant AY under consideration. We find that the impugned issue in respect of which the Ld. PCIT has invoked the provisions of section 263 of the Act is covered in favour of the assessee by various decisions of the Co-

ordinate Bench of the Tribunal including the Pune and Mumbai Tribunal as well as by the Hon'ble High Courts wherein the Tribunals/ Courts have consistently taken a view that the interest income earned by a co-operative society on deposits made out of surplus fund with co-operative banks qualify for deduction under the provisions of section 80P(2)(a)(i)/80P(2)(d) of the Act. The case of the assessee also finds support from the decisions (supra) cited by the Ld. AR wherein revision order under section 263 has been set aside under the similar set pattern to that of the assessee in the present appeal.

12. The Co-ordinate Bench of the Tribunal in the case of Talegaon Nagari Sahakari Patsanstha Limited vs. ITO (supra) has held that the interest income earned by a co-operative society on deposits made out of surplus funds with co-operative banks as well as scheduled banks qualify for deduction both under the provisions of section 80P(2)(a)(i) and 80P(2)(d) of the Act. Since, the Ld. AO in the instant case after considering the submission of the assessee has taken a plausible view, therefore, the same in our opinion cannot be considered as erroneous although it may be prejudicial to the interest of the Revenue.

13. It is the settled position of law that for assuming the jurisdiction u/s 263 of the Act the twin conditions must be fulfilled simultaneously i.e. (i) the order of the Ld. AO is erroneous and (ii) the assessment order is prejudicial to the interest of the Revenue. Considering the factual matrix of the case and legal position set out above, in our view, the order passed by the Ld. AO u/s 143(3) of the Act may be prejudicial to the interest of the Revenue but it cannot said to be erroneous. The Ld. AO has allowed the assessee's claim of deduction u/s 80P of the Act after verifying the requisite details called from the assessee. Even otherwise also, it is a highly debatable issue and the Ld. AO has taken a plausible view, therefore, the Ld. PCIT cannot invoke the jurisdiction u/s 263 of the Act on an issue which has already been examined by the Ld. AO and who has taken a plausible view. Therefore, in the absence of fulfillment of both the twin conditions, in our considered view, the Ld. PCIT is not justified in invoking the provisions of section 263 of the Act. We, therefore, set aside the order of the Ld. PCIT. The grounds of appeal raised by the assessee are accordingly allowed.

14. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 31st October, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 31st October, 2025.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune