



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No. 371/LKW/2024  
Assessment Year: 2021-22

<b>ACIT Circle-1</b> 57, Ramtirath Marg, Lucknow-226001.	v.	<b>UP Cooperative Sugar Factories Federation Limited</b> 9A Sahkari Chini Bhawan Rana Pratap Marg, Lucknow-226001.
		<b>PAN: AAAAU0391D</b>
(Appellant)		(Respondent)

Appellant by:	Shri R. K. Agarwal, CIT(DR)		
Respondent by:	Shri Shyam Lal, CA		
Date of hearing:	25	08	2025
Date of pronouncement:	31	10	2025

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

(A) This appeal filed by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi order dated 15.03.2024, pertaining to the A.Y. 2021-22. The Revenue has raised the following grounds of appeal: -

*"1. The Ld. CIT(A) erred by allowing the appeal against the addition of Rs.4,11,20,788/- made pertaining to claim of deduction u/s 80P of the Income Tax Act, 1961 because Depositing/investing funds in a co-operative bank/commercial bank is not a part of the business of providing credit facilities to its members. Such an interest income is not the 'operational income' of assessee-society from providing credit facilities to its members Consequently, the interest income has to be treated as 'income from other sources' not eligible for deduction u/s 80P of the Act."*

(A.1) The appeal is time barred by 17 days. The Revenue has filed an application seeking condonation of delay in filing of appeal. After perusal of application, we have satisfied that delay

in filing of appeal was for *bonafide* reasons and not on account of negligence or inaction on the part of Revenue. The delay in filing of appeal is condoned and appeal is admitted for hearing on merits.

(B) The only ground of appeal is regarding against the addition of Rs.4,11,20,788/- made by the Assessing Officer, disallowing claim of deduction u/s 80P of the Income Tax Act, 1961 ("Act", for short). The Assessing Officer took the view that the interest income of the assessee from Co-operative Bank was not eligible for deduction u/s 80P of the Act, and made the aforesaid addition. Vide impugned appellate order dated 15.03.2024; the Ld. CIT(A) deleted this addition. The relevant portion of the order of Ld. CIT(A) is reproduced as under: -

*"6. In this case, the appellant had received interest from cooperative bank amounting to Rs. 9,84,64,277/-. However, it has claimed deduction of Rs. 4,11,20,788/- limited to the extent of income of Cooperative society during the year. The AO relied upon various decisions to hold that interest earned from deposits from banks is not exempt u/s 80P(2) (a) (i) of the IT Act as quoted in Para 2.4 of the assessment order. In appeal, the assessee argued that the Supreme Court decision in the case of Totagar's Cooperative Sales Society Ltd. vs. ITO (322 ITR 238)(SC) is not applicable in its case. The appellant has relied upon the decision of the Hon'ble ITAT, Jaipur in ITA No. 512/JP/2019 and ITA No. 513/JP/2019 in the case of Jaipur Zila Dugdh Utpadan Sahkari Sangh Ltd, wherein a cooperative society would be entitled for claim of deduction under sec. 80P(2)(d) for the interest income derived from its investment with a Cooperative Bank.*

*6.1 The claims of the appellant are found to be correct. In this regard, reliance is placed on the decision of Hon'ble ITAT Mumbai dated 17.01.2023 in the case of More Commercial Premises Co-op Society Ltd ITA No 2873/M/2022, 2874/M/2022. In this decision of Hon'ble ITAT, Mumbai, it has been discussed that Hon'ble High Court of Karnataka in the case of PCIT V/s Totgar's Co-op Sale Society Ltd (2017) 392 ITR 74 (Kar) and Hon'ble Gujarat High Court in the case of State Bank of India V/s CIT (2016) 389 ITR 578 (Guj) had held that interest income earned by Co-operative Society on its investment held with Co-operative Bank would be eligible for deduction u/s 80P(2)(d) of the Act. Reliance is also being placed on the decision of the Hon'ble Jurisdictional High Court of Gujarat.*

*6.2 Further, the appellant's grounds of appeal are allowed, based upon the decision of the Hon'ble ITAT, Ahmedabad in ITA-7/Ahd-2023 dated 28.04.2023 in case of Mahila Sahayak Gruh Udhyog Sahakari Mandali Ltd V/s ACIT, Anand wherein the said co-operative banks being registered under Society Act, interest income earned from such co-operative banks*

were found eligible for deduction u/s 80P(2)(d) of the Act after placing reliance on the decision of Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd [72 Taxmann.com 169 (Guj)].

6.3 The claims made by appellant and reliance placed on above quoted decisions is found to be justified. Therefore, the addition of Rs. 4,11,20,788/- made by the AO after disallowing deduction u/s.80P is directed to be deleted. Hence, this ground of appeal is allowed.”

(B.1) The present appeal has been filed by Revenue against the aforesaid impugned order of the Ld. CIT(A). In the course of appellate proceedings in Income Tax Appellate Tribunal (ITAT), the copies of the following precedents were filed from the assessee's side: -

- 1 M/S. JAIPUR ZILA DUGDH UTPADAK SAHAKARI SANSTHAN LTD VS DCIT, CIRCLE-6, JAIPUR (ITA NO. 512 & 513/JP/2019) (ITA NO. 633 & 634 /JP/2019) (ITAT B BENCH JAIPUR)
- 2 M/S SOLITAIRE CHS LTD. MUMBAI VS PCIT - 26 MUMBAI (ITA NO.3155/MUM/2019 G-BENCH, MUMBAI )
- 3 LANDS END CO-OPERATIVE HOUSING SOCIETY LTD VS. ITO WARD 16(2)(3) MUMBAI (ITA 3566/MUM/2014 OF B BENCH MUMBAI)
- 4 MERWANJEE CAMA PARK CO OP HOUSING VS ITO RG 20(2) (2), MUMBAI (ITA 6139/MUM/2014) ITAT MUMBAI
- 5 SEA GREEN CO-OPERATIVE HOUSING SOCIETY VS ITO 21(3)(2) MUMBAI (ITA NO.1343/MUM/2017) E BENCH MUMBAI
- 6 KALIANDAS UDYOG BHAVAN PREMISES VS INCOME TAX OFFICER 21(2)(1) MUMBAI (ITA NO. 6547/MUM/2017 SMC MUMBAI)
- 7 RENA SAHAKARI SAKHAR KARKHANA LTD, DIST. LATUR. VS PR COMMISSIONER OF INCOME-TAX 2, AURANGABAD (ITA NO 1249/PUN/2019) B-BENCH ITAT PUNE
- 8 MAJALGAON SAHAKARI SAKHAR KARKHANA LTD. VS CIT CIRCLE 3 AURANGABAD (ITA 308/PUN/2018) ITAT PUNE BENCH
- 9 PRINCIPAL COMMISSIONER OF INCOME TAX, HUBLI VS. TOTAGARS COOPERATIVE SALE SOCIETY (2017) 395 ITR 611(KARNATAKA)
- 10 PRINCIPAL COMMISSIONER OF INCOME TAX, HUBLI VS. TOTAGARS COOPERATIVE SALE SOCIETY (2017) 392 ITR 74(KARNATAKA)
- 12 THORAPADI URBAN COOPERATIVE CREDIT SOCIETY VELLORE VIRUPACHIPURAM URBAN CO-OP CREDIT SOCIETY LIMITED VELLORE VS INCOME TAX OFFICER WARD 1 VELLORE (MADRAS, HYDRABAD) WP - 11172/11174, 11177 & 11180 /2023 WP - 11034 /11038/11044 & 11048 OF 2023

✓ CC: CIT (DR).Income Tax - Enclosed please find one copy each of the above  
Appellate Tribunal Paper Books for your records and necessary actions.

A paper book was also filed from the assessee's side containing the following particulars: -

<u>S.NO.</u>	<u>PARTICULARS</u>
1	Photocopy of revised Computation of income showing deduction claimed u/s 80(2)(d) of IT Act 1961 in respect of interest earned from Co-operative Bank which is a Co-operative Society amounting to Rs 41120788.20.
2	Photocopy of Ledger showing Interest earned During the F.Y. 2021-22 of Head Office Rs 111788618.00.
3	Photocopy of Calculation of Interest from UP Cooperative Bank Ltd for F.Y. 2020-21 relevant to A.Y. 2021-22 with Interest Certificates.
4	Photocopy of Profit and Loss Account for F.Y. 2020-21 Of Head Office showing Income from Interest Rs 111788618.00.
5	Written Submission regarding eligibility of deduction of Rs 41120788.00 representing Interest earned from Cooperative Bank (which is a Cooperative Society) against total Income of Rs 98464277.00.
6	Photocopy of Written Submission dated 14 <sup>th</sup> December 2022 bearing to ITBA/AST/F/143(3)(SCN)/2022-23/1047785424(1) DT 2.12.2022 objecting to proposed Variation in income by Assessment Unit.
7	Photocopy of order passed by CIT(A) National Faceless Appeal Centre (NFAC) relating to A.Y. 2020-21 upholding Allowability of Deduction u/s 80(2)(d) of IT Act 1961 in respect of Interest earned from Co-operative Bank.

(B.2) At the time of hearing, the Ld. Departmental Representative opposed the submissions and supported the order of the Assessing Officer. He contended that in view of the judgment of the Hon'ble Supreme Court in the case of Totgar's Co-operative Sale Society Ltd vs ITO (2010) 322 ITR 283 (SC).

(B.3) On the other hand, the Ld. Counsel for the assessee supported the order of the Ld. CIT(A). He placed reliance on precedents referred to in foregoing paragraph (B.1) of this order.

(C) Similar issue has been decided by Co-ordinate Bench of Income Tax Appellate Tribunal in the case of Co-operative Cane Development Union Limited Maholi (Lakhimpur) vs ACIT in ITA.

No.165/LKW/2023 for A.Y. 2017-18 order dated 30.09.2024 which has also been followed by us in the case of District Co-operative Sugar Cane Supply Ltd vs ITO in ITA. No.577 & 578/LKW/2024 for A.Y. 2016-17 & A.Y. 2018-19 vide order dated 30.10.2025. For the ease of reference, the relevant portion of order in the case of Co-operative Cane Development Union Limited Maholi (Lakhimpur) vs ACIT (supra) is reproduced below:

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*“13. We have duly considered the facts and circumstances of the case. And also the arguments made by both parties. Since the case of the Revenue is based on the decision of the Hon’ble Supreme Court in the case of Totgars Cooperative Sale Society Limited vs. Income Tax Officer (supra), it would be pertinent to first consider the decision of Hon’ble Supreme Court in that matter. As pointed out by the ld. Sr. DR, as per the said judgment, 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 that particular case, the Hon’ble Supreme Court observed that, in the facts and circumstances of that case, the assessee society had earned interest on funds which were not required for business purposes at the given point of time. Therefore, as it clarified, on the facts and circumstances of that case, they rendered their judgment that such interest income fell in the category of, “other income” which had rightly been taxed by the Department under section 56 of the Act and therefore, was ineligible for deduction under section 80P of the Act. The two judgments of Hon’ble Allahabad High Court that have been cited by the ld. Sr. DR have followed the principle laid down by the Hon’ble Supreme Court and held, that the objects of the society did not provide for investment of money in a post office or bank and earn interest and therefore, the interest earned out of the investments made in the bank would be an interest, which in turn would be income from other sources that would be chargeable to tax under section 56 of the Act. However, as the ld. Authorized Representative has pointed out, the arguments of the nature that the fixed deposits were made on account of the Statutory provisions (of sections 58 and 59 of the U.P. Cooperative Societies Act in this case) and was therefore, the condition precedent to doing of business and accordingly “attributable” to the activities of the assessee cooperative, was not brought before the Hon’ble Allahabad High Court in either of the judgments cited by the ld. Sr. DR. Furthermore, M/s Cane Cooperative Development Council had appealed the judgment of Hon’ble Allahabad High Court in ITA No. 183/2016 to the Hon’ble Supreme Court in Civil Appeal No. 7405 to 7409 of 2021 and placed the statutory rules before the Hon’ble Supreme Court. After considering that such rules may have a bearing on the nature of income and entitlement to exemption under section 80P of the Act, the Hon’ble Supreme Court had remitted the matter back to the Income Tax Appellate Tribunal to decide the appeals afresh, without being bound or influenced by the earlier orders passed by them or by the Hon’ble High Court. In view of such orders of the Hon’ble Supreme Court, the case laws of the jurisdictional Hon’ble Allahabad High Court cited by the ld. Sr. DR did not constitute a binding precedent for the ITAT, Lucknow Bench in the case of*

Cooperative Cane Development Council in ITA Nos. No.285/Lkw/2015, 474/Lkw/2015, 525/Lkw/2015, 536/Lkw/2015 and 540/Lkw/2015. The Hon'ble ITAT, Lucknow Bench after considering the byelaws and the statutory rules, the decisions of Hon'ble Allahabad High Court in CIT vs. Krishak Sahkari Ganna Samiti Limited 258 ITR 594 (Alld) and CIT vs. Cooperative Cane Development Union Limited 118 ITR 770 (Alld) and the decisions of the Tribunal in Income Tax Officer vs. Sahkari Ganna Vikas Samiti, Rupapur Chouraha (Munder), Hardoi in ITA No. 467/Lkw/2013 held as under:-

"7.1 Now the parties are again before us. We find that assessee had earned interest from fixed deposits from bank and co-operative society. Hon'ble Supreme Court, after acceptance of additional documents had set aside the issue before this Tribunal for readjudication. We find that the arguments of the assessee are that the assessee had placed the funds in the form of fixed deposits with nationalized banks and Co-operative banks in view of the specific requirements of U.P. Co-operative Societies Act. We find that section 58 of the U.P. Co-operative Societies Act requires the net profit to be distributed as under: "

(a) An amount not less than twenty five percent shall be transferred to a fund called the reserved fund:

(b) Not less than such amount as may be prescribed, shall be credited to a Co-operative Education fund to be established in the manner prescribed, and this shall be applicable to such cooperative society also which incur loss in the year, [Provided that the provisions of this clause shall not apply to a Primary Agriculture Credit Co-operative Society, a Central Cooperative Bank or the Apex Bank. ;]

(c) An amount that may be prescribed shall be credited to the research and development fund created in the Apex Societies of the concerned class of Cooperative society and which shall be maintained for the purpose of Research and development in the prescribed manner.

(d) an amount not exceeding twenty percent as may be prescribed shall be transferred to a fund called the Equity Redemption Fund to be established and utilized in the manner prescribed by such co-operative Society which has the subscription of the State Government in its share capitals."

7.2 Hon'ble Allahabad High Court in the case of CIT vs. Krishak Sahkari Ganna Samiti Ltd. [2002] 258 ITR 594 (Alld) has held that the investment by co-operative Society in the form of Government securities, equivalent to 25% of its profit, was the requirement of keeping the same as statutory reserve therefore, has held that such earning of interest was attributable to Allahabad High Court are reproduced below: "Clause (c) of Section 80-P(2) exempts income of cooperative society to the extent mentioned in that section if the profits or gains are 'attributable' to the activity in which the Cooperative Society is engaged. The findings are that under statutory provisions the Cooperative Society is bound to invest 25% of its profits in Government securities. The assessee complied with this provision. In the process, it earned interest on these investments. The question is whether such profits or gains are attributable to the activity of supplying sugarcane carried on by the assessee. In Cambay Electric Supply Industrial Co. Ltd. v. CIT [1978] 113 ITR 84 the Supreme Court held that the expression 'attributable' suggests that the Legislature intended to cover receipts from sources other than the actual conduct of the business of the assessee. The investment of the statutory percentage of its profits in Government securities was a condition of the carrying on the business. The profits or gains from such investments were connected with or incidental to the carrying on of the actual business. They were, in our opinion, rightly held by the Tribunal to be attributable to the activity carried on by the assessee within the 'meaning of clause (c) aforesaid. We therefore, answer the question referred to us in the affirmative in favour of the assessee and against the Department. 8. Following the aforementioned ratio laid down by the Division Bench which we consider binding on us, we too answer the question referred to us in the affirmative in favour of the assessee cooperative Society and against the Revenue."

7.3 Further we find that the assessee has relied on a judgment of Raipur Tribunal in the case of Gramin Sewa Sahakari Samiti Maryadit vs. Income Tax Officer

[2022] 138 taxmann.com 476 (Raipur-Trib.) wherein the Tribunal has held that the interest earned by the assessee from deposit with co-operative bank and nationalized bank was eligible for deduction u/s 80P(2)(a) of the Act.

7.4 The above two judgments respectively by Hon'ble High Court and Tribunal hold that the interest earned by a Co-operative Society on deposits, which are statutorily required to be kept in the form of bank deposits or Government securities, are attributable to the business of an assessee.

7.4 Here in the present cases, we do not find the figures regarding the interest which the assessee may have earned on fixed deposits attributable to the making of statutory reserves. We further find that bye laws of the assessee has to be gone through which, though are available in the paper book, but require examination by the Assessing Officer as these were filed before Hon'ble Supreme Court as additional evidences. Therefore, we deem it appropriate to remit the issue of deduction u/s 80P for re-adjudication by the Assessing Officer, who, in the light of judgment of Hon'ble Supreme Court and keeping in view the judgments relied on by the assessee and keeping in view the additional documents, as filed before Hon'ble Supreme Court, will adjudicate the issue afresh. Needless to say that the assessee will be provided sufficient opportunity of being heard."

14. Subsequent on the said remand, the matter was examined by the Revenue and after consideration of the decision of the Hon'ble Supreme Court and the other judgments relied upon by the Hon'ble ITAT while remanding the matter back to him, the ld. Assessing Officer held as under:-

"3.3 Reason for inference drawn that no variation is required on this issue:

The submissions made by the Assessee have been examined thoroughly particularly the bylaws of the Assessee Society and the U. P. Cooperative Societies Act. On going through the by-laws of the Assessee Society, it has been noticed that its Part 14 i.e. "Disposal of Net Profit and Societies" Assets and funds and appropriation thereof deals with the appropriation of Net Profits and Funds of the Assessee Society. Further, it has also been noticed that the aforementioned Part-14 of the bylaws of the Societies are in accordance with section 58 and 59 of the U. P. Co-operative Societies Act. Further, it has also been noticed that the secured reserve as well as other reserves are created in Annual General Meeting of the Society as per its bylaws and get accumulated over the year. These reserves are kept in co-operative and nationalized banks from where the Assessee earns the interest income under question. In view of the aforementioned facts, it is inferred that the reserve funds kept by the Assessee with Co-operative and nationalized banks are as per the by-laws of the Society and accordingly interest income arising from these funds can be held to be attributable to its main activities and therefore, the assessee is eligible for deduction in respect of this interest income under section 80P(2)(a) of the Act as per the case laws referred to and relied upon by the Hon'ble L.T.A.T. i.e. Judgments of Hon'ble Allahabad High Court in the case of CIT Vs. Krishak Sahkari Ganna Samiti Limited [2002] 258ITR594 (Allahabad) and ITAT, Raipur in the case of Gramin Sewa Sahakari Samiti Maryadit Vs. Income Tax Officer 92022), 138 Taxmann.com 476 (Raipur Tribunal)."

15. Thus, the principle that interest income arising from investments in statutory reserve funds and other funds as per the provisions of sections 58 and 59 of the U.P. Cooperative Societies Act is "attributable" to the main activities of that Society, has been accepted by the Revenue. The assessee is governed by the same U.P. Cooperative Societies Act and Rules as the Cooperative Cane Development Council, Lakhimpur and therefore, in its case also, it must be held that interest earned from investment made by it as per sections 58 and 59 of the U.P. Cooperative Societies Act r.w.r.173 of the U.P. State Cooperative Rules, is attributable to the activity in which the assessee is engaged and therefore, is eligible to be deducted under section 80P(2)(a) of the Act.

16. We have further observed that the Hon'ble Madras High Court in the case of *K. 2058, Saravanampatti Primary Agricultural Co-Operative Credit Societies Ltd. v. Income Tax Officer 426 ITR 251 (Mad)*, after considering that the Societies was required to maintain a statutory reserve of 25% under the Tamilnadu Cooperative Societies Act held that the same could not be regarded as the surplus funds of the Society as decided in *M/s Totgars Cooperative Sale Society Limited (supra)* and therefore, it set aside the assessment of the ld. Assessing Officer in the light of the decision of the Hon'ble Supreme Court in *CIT vs. Nawanshahar Central Cooperative Bank Ltd. 289 ITR 6 (SC)* 'Therefore, in view of the arguments made by the learned Authorized Representative, that the investment in fixed deposits and other securities or on account of the provisions of sections 58 and 59 of the U.P. Cooperative Societies Act, 1965 and section 173 of the U.P. Cooperative Societies Rules, 1968, it is quite clear that since it has been held that interest on such investment is attributable to the main activity of the assessee cooperative society, the interest earned from such investments ought not to be regarded as a surplus within the meaning of *Totgar's Case*, but an interest attributable to the main activity of the assessee cooperative and therefore, deductible under section 80P. The assessee has submitted copies of its byelaws and the detailed breakup of investments and interest arising on the same. However, we observe that the ld. Assessing Officer has not examined the breakup of such investments and the interest earned on the same, with reference to the byelaws or sections 58 and 59 of the U.P. Cooperative Societies Act, 1965 and 173 of the U.P. Cooperative Societies Rules, 1968 as he was of the view that no such interest was deductible in view of the decision of Hon'ble Supreme Court in the case of *Totgars (supra)*. Now that the position with regard to such investments has been clarified by the Hon'ble ITAT in the case of *Cooperative Cane Development Council, Lakhimpur* and accepted by the Revenue in the consequent assessment, we deem it appropriate to restore the matter in all three cases back to the file of the ld. Assessing Officer for the limited purpose of re-computing the admissible deduction under section 80P with reference to the interest earned on investments made in accordance with sections 58 and 59 of the U.P. Cooperative Societies Act, 1965 and 173 of the U.P. Cooperative Societies Rules, 1968 . Ground numbers 1 to 5 are accordingly allowed. With regard to Ground no 6 on the issue of adding back the interest on PF balance of the seasonal employees of the society, we observe that the same cannot be considered to be the investments of the society and accordingly the interest accruing on the said amount cannot be said to be income of the society. Therefore, any adding back of such interest income to the income of the society is not maintainable and accordingly, additions made on this account in A.Ys. 2017-18 and 2020-21 are deleted. In view of the fact that we have allowed Ground numbers 1 to 5, Ground numbers 7 to 9 are rendered infructuous and are dismissed as such."

(C.2) In the light of the decision of Co-ordinate Bench of this ITAT, Lucknow in the cases, referred to in foregoing paragraph (C) of this order, we hereby set aside the impugned order and restore the issue to the file of the Assessing Officer with the direction to verify the correctness of the claim of the assessee that the interest disallowed by AO was earned from the fixed

deposits made in pursuance of the RBI guidelines and the statutory provision governing the maintenance of reserve funds; and to thereafter pass fresh order on this issue in accordance with law after providing reasonable opportunity to the assessee. The ground raised in this appeal is partly allowed for statistical purposes.

In the result, the appeal of the Revenue is partly allowed for statistical purposes.

Order pronounced in the open Court on 31/10/2025.

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

DATED: 31/10/2025

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

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By order  
Sr. Private Secretary

