

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 249/KOL/2025
Assessment Year: 2017-2018**

***Kashipur Brihadayatan Credit Cooperative
Society Limited,.....Appellant
Vill. & P.O. Kalapathar,
District-Purulia-723121, West Bengal
[PAN:AAAAK9453E]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(2), Purulia,
South Lake Road, Purulia-723101, W.B.***

Appearances by:

*Shri M. Goenka, C.A. and Shri S. Goenka, C.A., appeared
on behalf of the assessee*

*Shri Susanta Saha, Sr. D.R., Addl. CIT, appeared on
behalf of the Revenue*

**Date of concluding the hearing: September 03, 2025
Date of pronouncing the order: November 17, 2025**

ORDER

The present appeal is directed at the instance of assessee against the order of Id. Additional/Joint Commissioner of Income Tax (Appeals)-8, Mumbai dated 17.12.2024 passed for Assessment Year 2017-2018.

2. Facts in brief are that the appellant-assessee is a Credit Cooperative Society, which filed its return of income on 06.11.2017

disclosing total income at NIL. The case was selected for scrutiny through CASS and notice under section 143(2) was issued on 14.08.2018 followed by issue of notice under section 142(1) on 16.01.2019, which was duly served upon the assessee along with questionnaire. In response to these notices, the assessee furnished documents and stated that it is mainly engaged in the banking business to receive deposits and make payments to its members under deposit mobilizing, providing agricultural loan to its members. On perusal of the profit and loss account for the year under consideration, it is noticed that the assessee had made deposits in savings account and term deposits with commercial bank of Rs.3,88,992/- and Rs.7,19,052/- respectively. The interest income of Rs.11,08,044/- in aggregate is not liable to allow as deduction under section 80P of the Income Tax Act as it has been accrued on account of deposits with other than Cooperative Bank or other Cooperative Society. The matter was confronted to the assessee by issuing show-cause notice dated 12.12.2019. On perusal of the response furnished by the assessee and examination of the material available on record, it is found that the assessee's explanation is not satisfactory. In the explanation, the assessee could not explain why the investment made in the banks other than cooperative bank will not be treated as surplus fund as these investments are not immediately required for giving credit facility to the members. These investments are kept only to earn interest. Not being satisfied, the ld. Assessing Officer disallowed Rs.11,08,044/- and added to the total income of the assessee under the head "income from other sources".

3. On being aggrieved, the assessee preferred an appeal before the Id. CIT(Appeals). The Id. Addl./JCIT(Appeals) dismissed the appeal of the assessee saying that the assessee is not eligible for deduction under section 80P(2)(a)(i) of the Act in respect of interest income earned from Banks including Cooperative Bank.

4. On being aggrieved, the assessee preferred an appeal before the Tribunal. It was the submission of the Id. Counsel for the assessee that the only issue involved in this appeal relates to disallowance of deduction claimed under section 80P of the Act. At the outset, Id. Authorized Representative of the assessee argued that the assessee is a Credit Cooperative Credit Society Limited and claimed deduction under section 80P of the Act for the assessment year 2017-18. He further submitted that the assessee-Society is not involved in the business of Banking and it is only a Cooperative Society registered under the Cooperative Societies Act and involved in providing credit facilities only to its members as provided in the Act. The assessee is not having any intention to gain any benefit from other sources.

5. The Id. A.R. further submitted that the facts on the ratio laid down in the case of M/s. Totgars Cooperative Sale Society Limited reported in 322 ITR 283 relied on by the Revenue Authorities are entirely different from that of the facts of the instant case in hand. He further submitted that as per Para 11 of the judgment, it is clearly mentioned that “*this judgment is confined to the facts of the present case*” and, therefore, it cannot be applied in the assessee’s case. Therefore, the assessee is eligible for deduction under section

80P of the Act. He also relied on the decision of Kakateeya Mutually Aided Thrift and Credit Cooperative Society Limited. The ld. A.R. also relied on the decision of the Hon'ble High Court of Andhra Pradesh in the case of Vavveru Cooperative Rural Bank Limited - vs.-CCIT & Another reported in 396 ITR 371 and pleaded to set aside the orders passed by the Revenue Authorities and allow the deduction under section 80P of the Act.

6. Per contra, the ld. Departmental Representative argued that the ld. Addl./JCIT(Appeals) has rightly upheld the addition made by the ld. Assessing Officer as the assessee is not eligible to claim deduction under section 80P of the Act. The ld. D.R., therefore, pleaded to uphold the order passed by the ld. Addl./JCIT(Appeals) and dismiss the appeal of the assessee.

7. I have heard both the parties and perused the material available on record. Now the question before me whether the assessee is eligible for deduction under section 80P with respect to the interest earned on investment in term-deposits in the Bank accounts maintained with Commercial Banks during the financial year 2016-17. The contention of the Ld. AO is that interest accrued on Reserve Fund Deposits is not eligible for deduction U/s 80P of the Act. The Ld. Revenue Authorities relied on various case laws to state that *income from interest on securities ear marked to reserve fund has been held not eligible for deduction u/s 80P*. The Ld. Revenue Authorities have also placed relied on the decision of Hon'ble Supreme Court of India in Civil Appeal No. 1622 of 2010 in the case of M/s Totgars Cooperative Sale Society Ltd., wherein

it was held that “*investment of surplus on hand not immediately required in Short Term deposits and securities by a co-operative society providing credit facilities to members or marketing agriculture produce to member*”. However, in the instant case, the facts are distinguishable and hence, in my view, the ratio laid down in the case of M/s Totgars Cooperative Sale Society Ltd.(supra) shall not be applied to the instant case. On similar set of facts, coordinate Bench of this Tribunal in the case of Kakateeya Mutually Aided Thrift and Credit Co-op Society held in favour of the assessee vide I.T.A. No. 107/Viz/2022, CO No.07/Viz/2022 dated 30.08.2023. For the sake of reference, relevant paragraphs of the order are extracted as under:

“8. We have heard both the sides and perused the material available on record and the orders of the Ld. Revenue Authorities. It is an admitted fact that the assessee has claimed deduction U/s. 80P(2)(a)(i) of the Act on the interest accrued and received by the assessee U/s. 80P(2)(a)(i) of the Act. The contention of the Ld. AO is that as per section 80P(2)(d), the assessee is eligible to claim deduction U/s. 80P(2)(a)(i) of the Act only when it is invested with any other cooperative society. The Ld. AO also placed heavy reliance in the case of M/s. Totgars Cooperative Sale Society Ltd (supra) while disallowing the claim made by the assessee U/s. 80P(2)(a)(i) of the Act. We have perused the ratio laid down by the Hon’ble Apex Court in the case of M/s. Totgars Cooperative Sale Society Ltd (supra) and found that in that case the society is engaged in marketing of the agricultural produce by its members as per section 80P(2)(a)(iii) while carrying on the business of banking or providing credit facilities to its members U/s. 80P(2)(a)(i) of the Act. In that case, the Society retained the sale proceeds which was otherwise payable to its members from whom the produce was bought which was invested in short term deposits / securities. It is also found that the amount payable to its members realized from sale proceeds of the agricultural produce of its members was retained by the society and was shown as liability on the balance sheet. Therefore, the Hon’ble Apex Court has held that interest earned from retaining the amount payable to its members shall not be considered as income from other sources. However, in the instant case the facts are distinguishable and hence in our view the ratio laid down in the case of M/s. Totgars Cooperative Sale Society Ltd (supra) shall not be applied. Section 80P(l) of the Act entitles the Cooperative Societies to deduct the sums specified in sub-

section (2) from its gross total income while computing the total income. Sub-section (2) of section 80P, in the sub-clause (a) allows deduction to cooperative society which is engaged in the following activities:

- “(a) in the case of a co-operative society engaged in—
- (i) carrying on the business of banking or providing credit facilities to its members, or
 - (ii) a cottage industry, or
 - (iii) the marketing of agricultural produce grown by its members, or]
 - (iv) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
 - (v) the processing, without the aid of power, of the agricultural produce of its members, [or]
the collective disposal of the labour of its members, or
 - (vi)
 - (vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing offish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,]

the whole of the amount of profits and gains of business attributable to any one or more of such activities:”

9. Further, we also extract below the provisions of section 80P2(d) and (e) of the Act for reference:

“(d) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income;

(e) in respect of any income derived by the co-operative society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of such income;”

10. From the plain reading of section 80P(2)(a)(i) of the Act, the whole of amount of profits and gains of the business attributable to one or more of such activities shall be allowed as a deduction. Further, section 80P(2)(d) and 80P(2)(e) of the Act also allows similar deductions. It is clear that the deductions available under clauses (a) to (e) of section 80P(2) are activity based whereas clauses (d) and (e) are investment based. The distinction between clauses (a) and clauses (d) & (e) on the other hand is that the benefit under clause (a) is restricted to only into those activities of a cooperative society enlisted in sub-clause (a) whereas the benefit of clauses (d) & (e) are available to all cooperative societies without any restriction on the activities carried on by them. In simple terms, the benefit under clause (a) will be limited only to the profits & gains of the business attributable to any one or more of such activities. But in case, if the cooperative society

has an income not attributable to any one or more of such activities listed in sub-clauses (i) to (vii) of clause-(a), the same may go out of the purview of clause (a) but still the cooperative society may claim the benefit of clause (d) or (e) as per the conditions laid down therein. In the instant case, the original source of investments made by the assessee in Nationalized Banks is admittedly the income of the assessee derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income must be last, especially when the statute uses the expression "attributable to" and not any one of the expressions viz., "derived from" or "directly attributable to". The Hon'ble jurisdictional High Court of Andhra Pradesh and Telangana in the case of Vavveru Cooperative Rural Bank Ltd vs. Chief Commissioner of Income Tax and Another [2017] 396 ITR 0371 (AP) in para 34 has discussed about the decision of the Hon'ble Supreme Court in the case of Totgar's Cooperative Sale Society Ltd (supra) and distinguished the facts while deciding the case. For the sake of brevity, we extract the relevant para 34 of the judgment of the Hon'ble Andhra Pradesh and Telangana High Court herein below:

"34. The case before the Supreme Court in Totgar's Co-operative Sale Society Ltd. 's case (supra) was in respect of a co operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of marketing agricultural produce of the members of the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd. 's case (supra) that the business activity other than marketing of the agricultural produce actually resulted in net loss to the society. Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that the assessee did not pay to its members the proceeds of the sale of their produce, but invested the same in banks. As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members. The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note. "

11. Further, the Hon'ble jurisdictional High Court of Andhra Pradesh and Telangana in the case of Vavveru Cooperative Rural Bank Ltd vs. Chief Commissioner of Income Tax and Another (supra) held that the cooperative society is eligible for deduction U/s. 80P(2)(a)(i) of the Act

on the interest income received from investment in banks. The Hon'ble High Court in paras 35 to 37 of its judgment held as under:

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

36. The original source of the investments made by the petitioners in nationalized banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".

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

12. Further, the Coordinate Bench of Hyderabad in Tirumala Tirupati Devasthanams Employees Coop. Credit Society vs. ITO also affirmed the same view by following the decision of the Hon'ble AP High Court in the case of Vavveru Cooperative Rural Bank Ltd (supra). In the instant case also, the assessee has invested surplus funds out of the activities carried out as per the provisions of section 80P(2)(a) of the Act. We therefore by respectfully following the jurisdictional High Court are of the view that interest income should be allowed as deduction U/s. 80P(2)(a)(i) of the Act and thereby the Ld. CIT(A)-NFAC has rightly held by deleting the addition made by the Ld. AO and hence we find no infirmity in the order of the Ld. CIT(A)-NFAC.

13. In the result, appeal of the Revenue is dismissed.”

8. Respectfully following the decision of the Hon'ble High Court of Andhra Pradesh in the case of Vavveru Cooperative Rural Bank Ltd.(supra) and the ratio laid down by the Coordinate Bench of the Tribunal in the case of Kakateeya Mutually Aided Thrift and Credit

Cooperative Society Limited (supra), I am inclined to quash the order passed by the Ld. Addl./JCIT(Appeals) and allow the appeal of the assessee.

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

Order pronounced in the open Court on 17/11/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 17th day of November, 2025

*Copies to :(1) Kashipur Brihadayatan Credit Cooperative Society Limited,
Vill. & P.O. Kalapathar,
District-Purulia-723121, West Bengal*

*(2) Income Tax Officer,
Ward-3(2), Purulia,
South Lake Road, Purulia-723101, W.B.*

(3) Addl./JCIT(A)-8, Mumbai;

(4) CIT - , Kolkata;

(5) The Departmental Representative;

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha