

आयकर अपीलीय अधिकरण, विशाखपटनम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam, "DIVN" Bench, Visakhapatnam

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /ITA No.574/Viz/2025
(निर्धारण वर्ष/Assessment Year: 2020-21)

G MEDAPADU PACS, East Godavari District, Andhra Pradesh. PAN: AAAAG8455A	Vs.	Income Tax Officer, Ward-1, Kakinada.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Sri KSS Sarma, CA	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	16/10/2025	
घोषणा की तारीख/Date of Pronouncement:	14/11/2025	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee society is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 30.07.2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 143(3) of the Income-tax Act, 1961 (for short, "Act"), for

the Assessment Year 2020–21. The assessee society has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of the Hon CIT(A) is arbitrary and unjustice.
2. The CIT(A) ought to have allowed deduction US 80P(2)(a) for interest received on district co-operative banks amounting to INR 10,31,752 ignoring the AP high court decision in the case of The Vavveru Co-Operative Rural Bank ... vs The Chief Commissioner Of Income Tax, on 15 March, 2017
3. The CIT(A) ought to have allowed deduction US 80P(2)(a)(iii) in respect of commission earned from Andhra Pradesh state Civil supplies corporation limited INR 1,82,15,130.
4. The appellant craves leave to add to, amend, alter, delete all or any of the above grounds of appeal.”

2. Succinctly stated, the assessee, which is a primary agricultural co-operative society registered under the A.P. Co-operative Societies Act, 1964, and engaged in marketing agricultural produce of its members and supplying agricultural inputs to them, had filed its return of income for AY 2020-21 on 28.12.2020, declaring an income of Rs. Nil (after claiming deduction of Rs. 1,34,79,069/- under section 80P of the Act). Subsequently, the case of the assessee society was selected for scrutiny assessment for verifying certain issues, viz. (i). the assessee’s claim for deduction under Chapter VI-A; and (ii). other income reported in Schedule A-OI, not credited in the profit & loss account.

3. During the course of the assessment proceedings, the AO observed that during the subject year, the “Form 26AS” of the assessee society revealed, viz. (i). paddy procurement commission credited by the Andhra Pradesh State Civil Supplies Corporation Ltd. (for short, “APSCSCL”): Rs. 1,82,15,130/-; and (ii). interest income from deposits with the District Central Co-operative Bank (for short, “DCCB”), Kakinada: Rs. 10,31,752.

4. Apropos the paddy procurement commission, the AO was of the view that as the same was received by the assessee society from a non-member, thus, the same was ineligible for deduction under section 80P(2)(a)(iii) of the Act. The AO was, further of the view that the interest income earned by the assessee society on its deposits with the cooperative bank, viz. DCCB was also not eligible for deduction under section 80P(2)(d) of the Act. Accordingly, the AO declined the assessee’s claim for deduction under Section 80P of the Act of Rs. 1,34,79,069/- and vide his order passed under Section 143(3) r.w.s. 144B of the Act, dated 08.09.2022, determined its income at Rs. 1,92,46,882/-.

5. Aggrieved, the assessee society carried the matter in appeal before the CIT(A), who upheld both the disallowances and dismissed the

appeal. For the sake of clarity, we deem it apposite to cull out the observations of the CIT(A), as under:

5.0 Findings and Decision: -

5.1 Ground 1: 1.

The assessing officer has erred in treating the paddy procurement commission received by the assessee-society, as the income from non-members. Actually, the income of commission is from the services rendered to the members only.

Appellant's Contention:

The appellant has challenged the action of the Assessing Officer in treating the paddy procurement commission income as having been received from non-members, thereby denying deduction under Section 80P of the Act. It has been contended that the commission was earned from services rendered exclusively to the members of the society, including both regular (A-class) and associate members. The appellant submitted that the procurement was carried out under the supervision of the Joint Collector and routed through Primary Agricultural Credit Societies (PACS), acting on behalf of its members. The amount reflected in Form 26AS was argued to be arrears of commission pertaining to procurement undertaken in earlier years. In support, the appellant furnished certain member-wise procurement details and payment acknowledgements.

Decision:

Upon perusal of the assessment records, appellant's submissions, and supporting documents, the following observations are MADE:

- a) The commission income in question has been received from the Andhra Pradesh State Civil Supplies Corporation Ltd. (APSCSCL), a third-party government agency, as confirmed by the entries in Form 26AS and TDS certificates.
- b) The services rendered for procurement of paddy, although facilitated through PACS and on behalf of members, ultimately relate to a contractual arrangement with APSCSCL, which is a separate legal entity and not a member of the appellant society.
- c) The principle of mutuality, which is the basis for exemption under Section 80P, breaks down when income arises from dealings with non-

members. The Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. and further in Citizen Co-operative Society Ltd. has held that income earned through transactions with external entities (even when routed through members or cooperative structure) loses the character of mutual income.

d) While the appellant has submitted lists of members and claimed that the underlying services benefited members, no conclusive evidence was furnished to establish that the contractual obligation and corresponding payments were between the society and its members, rather than a third party (APSCSCL). The nature of income and its source must be examined in substance, not merely by the form of routing.

e) Even if the procurement was undertaken under government supervision and operationally through PACS, the legal source of the commission remains APSCSCL, and not the members themselves. The AO has rightly observed that the assessee failed to produce binding contracts, resolutions, or confirmations from the members that the services were rendered solely for them in a mutual capacity.

f) The reliance placed by the appellant on member-wise procurement data, while indicative of operational involvement of members, does not alter the character of the receipt, which is contractual consideration from a non-member organization.

5.1.1 In light of the above findings and judicial precedents, the appellant's claim for deduction under Section 80P on commission income received from APSCSCL is not sustainable. The source of income being a non-member entity, the doctrine of mutuality stands violated. Therefore, the AO's action in treating the commission income of Rs.1,82,15,130/- as business income not eligible for deduction under Section 80P is upheld.

5.1.2 Accordingly, This ground is dismissed. The addition of Rs. 1,82,15,130/- as income not eligible for deduction under Section 80P is confirmed.

5.2 Ground 2: Dispute in Quantum of Commission – Rs. 1,52,64,886/- vs. Rs. 1,82,15,130/-

Appellant's Contention:

The appellant claimed that the actual commission income earned during the relevant financial year was Rs. 1,52,64,886/- and not Rs. 1,82,15,130/-, which, according to the appellant, included prior year arrears not received during the year under consideration.

CIT(A) Decision: 5.2.1 The Assessing Officer has rightly adopted the amount as reflected in Form 26AS, which shows income accrued and credited by the APSCSCL and was available to the appellant during the relevant assessment year. No confirmation or revised statement was filed by the appellant from APSCSCL to contradict Form 26AS. Furthermore, the appellant had acknowledged the full income of Rs. 1,82,15,130/- in Schedule A-OI of the return.

5.2.2 In the absence of any reliable contrary evidence, the Assessing Officer was justified in considering Rs. 1,82,15,130/- as income for the relevant year.

5.2.3 This ground is dismissed. The addition based on income reported in Form 26AS stands confirmed.

5.3 Grounds 3 and 4: Interest Income from DCCB – Denial of Deduction under Sections 80P(2)(a)(i) and 80P(2)(d)

Appellant's Contention:

The appellant has contended that the interest income earned from deposits made with the District Central Co-operative Bank (DCCB) is eligible for deduction under Section 80P(2)(a)(i) or alternatively under Section 80P(2)(d) of the Act. It has been submitted that the DCCB, being a co-operative entity, is akin to a co-operative society and therefore the income derived from investments therein qualifies for deduction. The appellant further argued that the deposits were made out of surplus funds generated from its regular business activities as a co-operative society, and hence the income therefrom should be considered incidental to its primary operations.

Reliance was placed on the decisions of the Andhra Pradesh High Court in Vavveru Co-operative Rural Bank Ltd. and the ITAT in Krishna District Milk Producers Cooperative Union Ltd.

Decision:

5.3.1 The interest income of Rs.10,31,752/- earned by the appellant-society from deposits made with the District Central Co-operative Bank (DCCB) has been rightly brought to tax by the Assessing Officer under the head "Income from Other Sources." The appellant claimed deduction on this income under Sections 80P(2)(a)(i) and 80P(2)(d) of the Income Tax Act, 1961. After careful consideration of the facts, statutory provisions, and binding judicial precedents, it is evident that the claim does not hold merit under either of the sections invoked. The nature of this interest income, being from deposits placed out of surplus or idle funds, does not stem from the appellant's principal business activity of providing credit to members or any operational

banking function. Rather, it is derived from the passive deployment of funds not immediately required for business purposes.

5.3.2 Section 80P(2)(a)(i) provides deduction to a co-operative society engaged in the business of banking or providing credit facilities to its members. In this case, however, the interest income does not arise from lending operations or business transactions carried out with members. Instead, it is attributable to the surplus funds invested with an external financial institution, namely the DCCB. The Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. v. ITO (2010) 322 ITR 283 (SC) has laid down that such interest income from investment of surplus funds is not income from banking or credit activity, but rather income assessable under the head "Income from Other Sources." The facts in the appellant's case are materially similar to those examined in Totgars, and thus, the ratio laid down by the Supreme Court applies squarely to this case, rendering the claim under Section 80P(2)(a)(i) untenable.

5.3.3 The alternative claim of deduction under Section 80P(2)(d) also fails for equally compelling reasons. This provision grants deduction for income by way of interest or dividends derived by a co-operative society from its investments with any other cooperative society. The language of the provision is specific and restricts the scope of eligible investments to those made with entities that legally qualify as "co-operative societies." The courts have uniformly held that co-operative banks are a distinct category and are not covered under the term "co-operative society" for the purpose of Section 80P(2)(d). The Hon'ble Karnataka High Court in PCIT v. Totagars Cooperative Sale Society (2017) 83 taxmann.com 140 and the Hon'ble Supreme Court in The Mavilayi Service Co-operative Bank Ltd. v. CIT (2021) 123 taxmann.com 161 have explicitly affirmed that interest income from deposits made with co-operative banks is not eligible for deduction under Section 80P(2)(d). The legal distinction between co-operative banks and co-operative societies has been well established, and the omission of the term "co-operative bank" in Section 80P(2)(d) is deliberate and meaningful. Hence, the appellant's reliance on this section is misplaced.

5.3.4 The argument that the DCCB qualifies as a co-operative society is factually legally unsustainable. Co-operative banks, including DCCBs, are governed by the provisions of the Banking Regulation Act, 1949, and are subject to regulatory control by the Reserve Bank of India. They function as full-fledged banking institutions and are fundamentally different in structure, function, and legal character from cooperative societies registered under state co-operative laws. Section 80P(4), inserted by the Finance Act, 2006, further clarifies that the provisions of Section 80P do not apply to any co-operative bank, other than primary agricultural credit societies or primary co-operative agricultural and rural development banks. This statutory exclusion

reinforces the legislative intent to keep co-operative banks, such as the DCCB, outside the purview of deductions under Section 80P, including sub-section (2)(d). Moreover, the DCCB itself does not claim any deduction under Chapter VI-A in its return of income, affirming its distinct status as a banking entity rather than a cooperative society for tax purposes.

5.3.5 The appellant has also not established that any portion of the interest income is derived from activities falling within the ambit of mutuality. For the doctrine of mutuality to apply, there must be a complete identity between contributors and beneficiaries, and the transactions must take place within the closed circle of members. In the present case, the interest was earned from investments made with an external bank and not from within the mutual framework of the society's members. In *Citizen Co-operative Society Ltd. v. ACIT* (2017) 84 taxmann.com 114 (SC) and *Bangalore Club v. CIT* (2013) 350 ITR 509 (SC), the Supreme Court held that interest income earned from member or non-member banks, where surplus funds are invested commercially, does not qualify for exemption under the principle of mutuality. The facts of the appellant's case are squarely covered by these judgments, where the surplus funds were parked to earn interest and not for any mutual benefit or cooperative purpose.

5.3.6 Furthermore, it is a settled principle of statutory interpretation that deduction and exemption provisions must be interpreted strictly, and any ambiguity must be resolved in favour of the Revenue. This principle has been reaffirmed by the Hon'ble Supreme Court in *Commissioner of Customs v. Dilip Kumar & Co.* (2018) 9 SCC 1, wherein it was held that the onus is on the assessee to clearly demonstrate eligibility for deduction. In this case, not only has the appellant failed to demonstrate such eligibility, but it has also not produced any evidence of expenditure incurred wholly and exclusively for earning the interest income, which could otherwise have been deductible under Section 57(iii). As per settled law, only such expenditure as is directly attributable to the earning of income from other sources can be allowed as a deduction. In the absence of any supporting documentation or explanation, no such relief is admissible.

5.3.7 In light of the foregoing discussion, and based on a consistent line of judicial authority, it is concluded that the interest income earned from deposits with the DCCB is neither attributable to the business of banking or credit facilities to members nor derived from investments with a co-operative society within the meaning of Section 80P(2)(d). The Assessing Officer has correctly assessed the said income under the head "Income from Other Sources" as per Section 56 of the Income-tax Act, 1961. The appellant has failed to discharge its burden of proving the claim of deduction under either of the invoked provisions. Accordingly, the disallowance of Rs.10,31,752/- is upheld, and the

appeal is dismissed. The addition made by the Assessing Officer stands confirmed.

5.3.8 The appellant has claimed commission income amounting to Rs.1,82,15,130/- received from The Andhra Pradesh State Civil Supplies Corporation Ltd., which has been treated by the Assessing Officer as business income arising from paddy procurement from non-members. Despite opportunities granted to the appellant to provide clarifications and supporting evidence, no satisfactory explanation or documentary proof was furnished to establish that this commission was earned exclusively from services rendered to members. As detailed in paragraphs 7 through 10, the appellant's failure to substantiate its claim that the commission income was related solely to member-based activities leaves the Assessing Officer justified in classifying the entire amount as business income from non-member sources.

5.3.9 The nature of this commission income, as per the assessment order and relevant supporting material on file, does not qualify for deduction under Section 80P of the Income Tax Act, 1961. Section 80P allows deduction only in respect of income earned by co-operative societies from activities carried on for their members. Since the commission is attributable to procurement activities involving non-members, the appellant cannot claim the benefit of this section. The judicial precedents and settled principles affirm that income derived from non-member transactions does not fall within the ambit of Section 80P deductions, which are strictly confined to member related business.

5.3.10 Consequently, the addition of Rs.1,82,15,130/- to the appellant's taxable income as business income is legally sound and supported by the record. The appellant's inability to furnish evidence to rebut the presumption of income being earned from non-members further fortifies the addition. Hence, this ground of appeal lacks merit and is dismissed.

6.0 In view of the above, the addition of Rs.1,82,15,130/- as business income not eligible for deduction under Section 80P is confirmed, and the appellant's appeal in this regard is dismissed."

6. The assessee society aggrieved with the CIT(A) order has carried the matter in appeal before us.

7. We have heard the Ld. Authorised Representatives of both parties, perused the orders of the authorities below and the material available on record.

8. Shri. KSS Sarma, CA – Ld. Authorised Representative (for short, “AR”) for the assessee society, at the threshold of hearing of the appeal, submitted that the assessee society is a primary agricultural co-operative society formed exclusively for the benefit of its farmer members. The Ld. AR submitted that the assessee society had, during the subject year, facilitated the procurement of paddy produced by its members for delivery to APSCSCL under a State-Government-supervised programme. Elaborating on his contention, the Ld. AR submitted that the paddy procurement was carried out by the assessee society entirely from its members, and the commission was credited through APSCSCL merely as a conduit of the State Government. The Ld. AR submitted that the procurement activity is part of the marketing of members’ agricultural produce, and, thus, is squarely covered under Section 80P(2)(a)(iii) of the Act. The Ld. AR in support of his contention had relied on the judgment of the Hon’ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. v. CIT (2021) 123 taxmann.com 161 (SC).

9. Apropos the assessee's claim for deduction of the interest income that was received by the assessee society on its deposits with the co-operative bank, viz. DCCB, the Ld. AR submitted that as the said co-operative bank is itself a registered co-operative society, therefore, interest income received by the assessee society on its deposits with the said bank qualified for deduction under Section 80P(2)(d) of the Act. The Ld. AR in support of his contention had relied on the judgment of the Hon'ble Jurisdictional High Court in Vavveru Co-operative Rural Bank Ltd. v. CCIT, (2017) 396 ITR 371(AP).

10. Per Contra, the Ld. Departmental Representative (for short, "DR") relied upon the orders of the lower authorities.

11. We have given thoughtful consideration to the contentions of the Ld. Authorised Representatives of both parties in the backdrop of the orders of the authorities below.

12. Apropos, the assessee's claim for deduction of the paddy procurement commission under Section 80P(2)(a)(iii) of the Act, we find that the assessee, which is a primary agricultural co-operative society registered under the A.P. Co-operative Societies Act, wherein all its members are individual farmers who cultivate paddy, is engaged in the marketing of agricultural produce grown by its members. In our view, as

Section 80P of the Act is a beneficial provision intended to encourage the co-operative movement in rural areas, therefore, it must be liberally construed.

13. We find that under the procurement scheme of the State Government, APSCSCL acts as an agency to purchase paddy from farmers through the PACS. The role of the assessee society is to coordinate procurement from members, arrange logistics, and finally remit the proceeds to them. The commission received through APSCSCL is only a service charge for marketing the produce of its members.

15. In our view, the fact that APSCSCL had credited the commission to the account of the assessee society or deducted tax at source (TDS) does not alter the essential nature of the transaction, which is marketing of members agricultural produce. Further, we are of the view that the source of payment being a government agency acting as intermediary does not convert the mutual activity into one with non-members. In fact, we find that the **Hon'ble Supreme Court in Kerala State Co-operative Marketing Federation Ltd. v. CIT (1998) (231 ITR 814)**, has held that for the purposes of section 80P(2)(a)(iii) of the Act, as long as agricultural

produce handled by the assessee belonged to its members it is entitled to exemption in respect of the profits derived from marketing of the same.

16. In the present case before us, there is no finding that the assessee society had procured paddy from non-members, and the AO had merely inferred on the basis of the mismatch in lists without identifying any specific non-member transactions. Further, the CIT(A) had also not brought out any evidence to show that any part of the procurement was from non-members.

17. We thus, following the above binding precedent and considering that the activity of the assessee society squarely falls within the object of the society and within the meaning of Section 80P(2)(a)(iii) of the Act, hold that the paddy procurement commission of Rs.1,82,15,130/- as eligible for deduction under section 80P(2)(a)(iii) of the Act. The **Ground of appeal No. 3** is allowed in terms of our aforesaid observations.

18. We shall now deal with the Ld. AR's claim that the Interest income of Rs. 10,31,752/- received by the assessee society on its deposits with the co-operative bank, viz. DCCB, Kakinada, is eligible for deduction under Section 80P(2)(d) of the Act.

19. On a perusal of the record, we find that DCCB is a co-operative society registered under the A.P. Co-operative Societies Act, functioning as the apex financing institution for Primary Agricultural Co-operative Societies in the district.

20. We further find that the subject issue as to whether or not the interest income received by a co-operative society on its deposits with a co-operative bank is eligible for deduction under Section 80P(2)(d) of the Act, had been looked into by a coordinate bench of the Tribunal, i.e **ITAT, "G" Bench, Mumbai** in the case of **M/s Solitaire CHS Ltd. Vs. Principal Commissioner of Income-tax -26, Mumbai, ITA No. 3155/Mum/2019, dated 29.11.2019**. The Tribunal, in its order, had observed as under:

"6. We have heard the authorised representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as the judicial pronouncements relied upon by them. Our indulgence in the present appeal has been sought, for adjudicating, as to whether the claim of the assessee for deduction under section 80P(2)(d) in respect of interest income earned from the investments/deposits made with the co-operative banks is in order, or not. In our considered view, the issue involved in the present appeal revolves around the adjudication of the scope and gamut of sub-section (4) of Sec. 80P as had been made available on the statute, vide the Finance Act 2006, with effect from 01.04.2007. On a perusal of the order passed by the Pr. CIT under Sec. 263 of the Act, we find, that he was of the view that pursuant to insertion of sub-section (4) of Sec. 80P, the assessee would no more be entitled for claim of deduction under Sec. 80P(2)(d) in respect of the interest income that was earned on the amounts which were parked as investments/deposits with co-operative banks, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Observing, that the co-operative banks from

where the assessee was in receipt of interest income were not co-operative societies, the Pr. CIT was of the view that the interest income earned on such investments/deposits would not be eligible for deduction under Sec. 80P(2)(d) of the Act.

7. After necessary deliberations, we are unable to persuade ourselves to be in agreement with the view taken by the Pr. CIT. Before proceeding any further, we may herein reproduce the relevant extract of the aforesaid statutory provision, viz. Sec. 80P(2)(d), as the same would have a strong bearing on the adjudication of the issue before us.

“80P(2)(d) (1). Wherein the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2). The sums referred to in sub-section (1) shall be the following, namely

- (a).....
(b).....
(c).....

(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;”

On a perusal of Sec. 80P(2)(d), it can safely be gathered that interest income derived by an assessee co-operative society from its investments held with any other co-operative society shall be deducted in computing its total income. We may herein observe, that what is relevant for claim of deduction under Sec. 80P(2)(d) is that the interest income should have been derived from the investments made by the assessee co-operative society with any other co-operative society. We are in agreement with the view taken by the Pr. CIT, that with the insertion of sub-section (4) of Sec. 80P, vide the Finance Act, 2006, with effect from 01.04.2007, the provisions of Sec. 80P would no more be applicable in relation to any co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. However, at the same time, we are unable to subscribe to his view that the aforesaid amendment would jeopardise the claim of deduction of a co-operative society under Sec. 80P(2)(d) in respect of its interest income on investments/deposits parked with a co-operative bank. In our considered view, as long as it is proved that the interest income is being derived by a co-operative society from its investments made with any other co-operative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d)

would be duly available. We find that the term “cooperative society” had been defined under Sec. 2(19) of the Act, as under:-

“(19) “Co-operative society” means a cooperative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any state for the registration of co-operative societies;” We are of the considered view, that though the co-operative banks pursuant to the insertion of subsection (4) to Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but as a co-operative bank continues to be a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies, therefore, the interest income derived by a co-operative society from its investments held with a co-operative bank would be entitled for claim of deduction under Sec.80P(2)(d) of the Act.

8. We shall now advert to the judicial pronouncements that have been relied upon by the Id. A.R. We find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) on the interest income derived from its investments held with a co-operative bank is covered in favour of the assessee in the following cases:

(i) Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 52 (Mum)

(ii). M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017

(iii).Marwanjee Cama Park Cooperative Housing Society Ltd. Vs. ITO-Range-20(2)(2), Mumbai (ITA No. 6139/Mum/2014, dated 27.09.2017.

(iv). Kaliandas Udyog Bhavan Pemises Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai

We further find that the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), had held that the interest income earned by the assessee on its investments with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act. Still further, we find that the CBDT Circular No. 14, dated 28.12.2006, also makes it clear beyond

any scope of doubt that the purpose behind enactment of sub-section (4) of Sec. 80P was that the co-operative banks which were functioning at par with other banks would no more be entitled for claim of deduction under Sec. 80P(4) of the Act. Insofar the reliance placed by the Pr. CIT on the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. vs. ITO (2010) 322 ITR 283 (SC) is concerned, we are of the considered view that the same being distinguishable on facts had wrongly been relied upon by him. The adjudication by the Hon'ble Apex Court in the aforesaid case was in context of Sec. 80P(2)(a)(i), and not on the entitlement of a co-operative society towards deduction under Sec. 80P(2)(d) on the interest income on the investments/deposits parked with a co-operative bank. Although, in all fairness, we may herein observe that the Hon'ble High Court of Karnataka in the case of Pr. CIT Vs. Totagars co-operative Sale Society (2017) 395 ITR 611 (Karn), had concluded that a co-operative society would not be entitled to claim of deduction under Sec. 80P(2)(d). At the same time, we find, that the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), had observed, that the interest income earned by a co-operative society on its investments held with a co-operative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act. We find that as held by the Hon'ble High Court of Bombay in the case of K. Subramanian and Anr. Vs. Siemens India Ltd. and Anr (1985) 156 ITR 11 (Bom), where there is a conflict between the decisions of non-jurisdictional High Court's, then a view which is in favour of the assessee is to be preferred as against that taken against him. Accordingly, taking support from the aforesaid judicial pronouncement of the Hon'ble High Court of jurisdiction, we respectfully follow the view taken by the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), wherein it was observed that the interest income earned by a cooperative society on its investments held with a co-operative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act."

20. We thus, in terms of our aforesaid observations and in the backdrop of the aforesaid view taken by the coordinate Bench of the Tribunal,, herein conclude that the assessee society is entitled for the deduction under Section 80P(2)(d) qua the interest income of Rs.

10,31,752/- received from DCCB, i.e., a co-operative bank. The **Ground of appeal No.2** is allowed in terms of our aforesaid observations.

21. The **Grounds of appeal Nos 1 & 4**, being general, are dismissed as not pressed.

22. Resultantly, the appeal filed by the assessee society is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 14th November, 2025.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated: 14th November, 2025
OKK / SPS

Copy to:

S.No	Addresses
1	G MEDAPADU PACS, 13-160 Canal Road, G.Medapadu BO East Godavari Medapadu B.O 533434, East Godavari, Andhra Pradesh.
2	Income Tax Officer, Ward-1, Kakinada, East Godavari District, Andhra Pradesh-533001.
3	The Pr.CIT, Visakhapatnam.
4	The DR, ITAT, Visakhapatnam Bench.
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Visakhapatnam.