

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT AND  
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

ITA No.1526 - 1528/Bang/2025
Assessment Year: 2017-18, 2018-19 & 2020-21

Mahilanidhi Souharda Ltd., 3-74A Maithri Deralakatte, Deralakatte, Mangaluru – 575 018.  <b>PAN – AAAAM 4812 D</b>	Vs.	The Income Tax Officer, Ward – 2(1), Mangaluru.  .
APPELLANT		RESPONDENT

Assessee by	:	Shri Sandeep Chalapathy, CA
Revenue by	:	Shri Subramanian, JCIT (DR)

Date of hearing	:	12.11.2025
Date of Pronouncement	:	14.11.2025

**ORDER**

**PER SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

1. The assessee has filed the present appeals against the separate impugned orders of even date 17/06/2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal

Centre, Delhi, [*learned CIT(A)*], for the assessment years 2017-18, 2018-19 and 2020-21.

2. Since all the appeals pertain to the same assessee arising out of the similar factual matrix and raising similar grounds, these appeals were heard together as a matter of convenience and are being decided by way of this consolidated order. With the consent of the parties, the appeal of the assessee for the assessment year 2017-18 is considered as a lead case, and the decision rendered therein shall apply mutatis mutandis to the other appeals of the assessee before us.

3. As in all the appeals, the assessee has raised similar grounds, the grounds raised by the assessee in its appeal for the assessment year 2017-18 are reproduced hereunder for ready reference: –

*“1. That the order of the Commissioner of Income Tax (Appeals) is in so far it is prejudicial to the interest of the appellant is had and erroneous in law and against the facts and circumstances of the case.*

*2. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in holding that if the nominal or associate members are not entitled to share of profit then the deduction u/s. 80P(2)(a)(i) has to be granted proportionate to the regular members and such direction is violation of provisions of the relevant State Co-operative Societies Act and decision of Hon'ble Supreme Court.*

*3. That the Commissioner of Income Tax (Appeals) erred in law and on facts in disallowing the deduction u/s 80P(2)(a)(i) of the Act in respect of interest earned on deposits with Nationalised and Co-operative banks as such interest is attributable to the profits of the business of the appellant.*

*4. That the Commissioner of Income Tax (Appeals) erred in law and on facts in disallowing the deduction u/s 80P(2)(d) of the Act in respect of interest earned on deposits with Co-operative banks.*

*Each of the above grounds is without prejudice to one another and the appellant craves leave of the Hon'ble Income Tax Appellate Tribunal, Bangalore to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal.*

4. The solitary grievance of the assessee is against the denial of deduction under section 80P of the Act.

5. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is the Sauharda Sahakari and is engaged in the activity of carrying on the business of providing credit facilities to its members. For the assessment year 2017-18, the assessee filed its return of income on 25/10/2017, declaring a total income of INR Nil, after claiming a deduction amounting to INR 1,24,78,536 under section 80P of the Act. The return filed by the assessee was selected for scrutiny, and statutory notices under section 143(2) and section 142(1) of the Act

were issued and served on the assessee. During the assessment proceedings, it was noticed that the assessee has two categories of members, namely, Regular (A Class) Members and Nominal (B Class) Members. It was further noticed that out of the total membership of 10,848, 803 members are A Class Regular Members, and 10,045 are B Class Nominal Members. The difference in the entitlement of the aforesaid two classes of Members was also noticed. Accordingly, the assessee was asked to show cause as to why the claim of deduction under section 80P of the Act be not denied as there is a violation of principle of mutuality, since there is an absence of complete identity between both the contributors and participators, as the Nominal Members are excluded from sharing the surplus created by the society and participating in its governance. After considering the response of the assessee, the Assessing Officer ("AO"), vide order dated 18/12/2019 passed under section 143(3) of the Act for the assessment year 2017-18, placing reliance upon the decision of the Hon'ble Supreme Court in Citizen Co-operative Society Ltd v/s ACIT, [2017] 397 ITR 1 (SC), held that there is a clear violation of principles of mutuality in the present case, and the assessee society is therefore, not entitled to deduction as per the provisions of section 80P of the Act.

6. The learned CIT(A), vide impugned order, directed the assessee to produce the certificate of registration under the

Karnataka Souharda Sahkari Act, 1997, as the assessee claimed that registration under the aforesaid State Act entitles the assessee to the status of “*co-operative society*” under the provisions of section 2(19) of the Act. Further, the learned CIT(A) directed the AO to examine the provisions of Karnataka Souharda Sahkari Act, 1997 and bye laws of the society to determine whether the Nominal/Associate Members are considered as members and to restrict the deduction under section 80P(2)(a)(i) of the Act as per the provisions of Karnataka Souharda Sahkari Act, 1997 and bye laws of the society. Further, the learned CIT(A) held that the interest earned by the assessee is neither eligible for deduction under section 80P(2)(a)(i) or section 80P(2)(d) of the Act. Accepting the alternative plea of the assessee that the cost of such funds to society should be allowed under section 57 of the Act, the learned CIT(A) directed the assessee to produce the necessary evidence before the AO to prove that the sum invested was out of interest-bearing deposits, along with calculating the cost of such investment in the hands of the assessee. Being aggrieved, the assessee is in appeal before us.

7. We have considered the submissions of both sides and perused the material available on record. In order to support its contention that the assessee is registered under the Karnataka Souharda Sahkari Act, 1997, the assessee furnished a copy of the

certificate issued by the Deputy Commissioner of Co-operative, DK District, Bangalore, registering the assessee under the Karnataka Souharda Sahkari Act, 1997, vide certificate dated 20/03/2003. We find that the Hon'ble Jurisdictional High Court in Shri Vitthalray Souharda Pattin Sahakari Niyamit v/s Union of India, [2020] 121 taxmann.com 300 (Karnataka), held that Co-Operative Society registered under the Karnataka Souharda Sahakari Act, 1997 would fit into the definition of "co-operative society" as enacted in section 2(19) of the Act, and, therefore, is entitled to the benefit of section 80P of the Act.

8. Further, as regards the issue of whether the Nominal/Associate Members are considered as members under the provisions of Karnataka Souharda Sahkari Act, 1997 and bye laws of the society, we find that the term "members" has been defined under section 2 of the Karnataka Souharda Sahkari Act, 1997 as follows: -

*"(r) "Member" means a person who has contributed towards the share capital of a co-operative before its registration and includes a person admitted to membership after such registration in accordance with the Act, rules 3[and the bye-laws and include a nominal 4[\*\*\*\*\*] member.]"*

9. Further, under the aforesaid Act, it is directed that the bye-laws of the society shall, inter alia, provide the rights, privileges, duties and liabilities of membership, including those of nominal

members. At this stage, it is also pertinent to note the provisions of section 21A of the Karnataka Souharda Sahkari Act, 1997, which reads as follows: -

*“21A – Nominal members.- (1) A cooperative may, in its interest, admit, (a) any person; (b) any firm, company, cooperative society or cooperative or any body or corporation constituted by or under any law for the time being in force; as a nominal member for a period not exceeding three years for a specific purpose mentioned in the bye-laws. Provided that such person or institution has any kind of business relationship with the cooperative or who or which is in need of the services of the cooperative or who or which is in a position to provide services required by the cooperative. Provided further that a person who is eligible for membership under section 20 shall not be admitted as a nominal member.*

*(2) A nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the cooperative and shall not have the right to participate in the management and to vote at any meeting of the co-operative including the election to the board of the co-operative and shall not be eligible to be elected as a director or an office-bearer of the cooperative.*

*(3) A nominal member shall have such rights and privileges and be subject to such liabilities as may be specified in the byelaws of the co-operative.”*

10. Therefore, from the careful perusal of the aforesaid provisions of the Karnataka Souharda Sahkari Act, 1997, it is evident that the assessee society, which is registered under the Karnataka

Souharda Sahkari Act, 1997, is entitled to have both Regular Members and Nominal Members. Thus, there is no restriction on the assessee under the Karnataka Souharda Sahkari Act, 1997, for dealing with the Nominal Members. In this regard, gainful reference can be made to the subsequent decision rendered by Hon'ble Supreme Court in Mavilayi Service Co-operative Bank Ltd. v/s CIT, Calicut, [2021] 431 ITR 1 (SC), wherein, the Hon'ble Supreme Court, after considering the definition of the term "*members*" in Kerala Co-operative Societies Act, 1969 held that unlike the Andhra Pradesh Act, which was considered in the case of Citizen Co-operative Society Ltd (supra), "*nominal members*" are members as defined under the Kerala Act, and therefore, the loans given to such nominal members would qualify for the purpose of deduction under section 80P(2)(a)(i) of the Act. The relevant findings of the Hon'ble Supreme Court, in the aforesaid decision, are reproduced as follows:-

*"46. It must also be mentioned here that unlike the Andhra Act that Citizen Cooperative Society Ltd. (supra) considered, 'nominal members' are 'members' as defined under the Kerala Act. This Court in U.P. Cooperative Cane Unions' Federation Ltd. v. CIT [1997] 11 SCC 287 referred to section 80P of the IT Act and then held:*

*"8. The expression "members" is not defined in the Act. Since a cooperative society has to be established under the provisions of the law made by the State Legislature*

*in that regard, the expression "members" in Section 80-P(2)(a)(i) must, therefore, be construed in the context of the provisions of the law enacted by the State Legislature under which the cooperative society claiming exemption has been formed. It is, therefore, necessary to construe the expression "members" in Section 80-P(2)(a)(i) of the Act in the light of the definition of that expression as contained in Section 2(n) of the Cooperative Societies Act. The said provision reads as under:*

*"2. (n) 'Member' means a person who joined in the application for registration of a society or a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws for the time being in force but a reference to 'members' anywhere in this Act in connection with the possession or exercise of any right or power or the existence or discharge of any liability or duty shall not include reference to any class of members who by reason of the provisions of this Act do not possess such right or power or have no such liability or duty;"*

*Considering the definition of 'member' under the Kerala Act, loans given to such nominal members would qualify for the purpose of deduction under section 80P(2)(a)(i)."*

11. Therefore, we are of the considered view that the reliance placed by the AO on the decision of the Hon'ble Supreme Court in Citizen Co-operative Society Ltd (supra) is completely misplaced, as the said decision was rendered on its own facts, which are different from the present case.

12. In the present case, there is no dispute regarding the fact that the interest income on which deduction under section 80P(2)(a)(i) of the Act was claimed by the assessee was from deposits in the nationalised banks. As per the assessee, the interest income is attributable to its business of providing credit facilities to its members and therefore, it is eligible for deduction under section 80P(2)(a)(i) of the Act. As per the assessee the amount which was invested in the banks to earn interest was not an amount due to any members and the same was not liability in its account, and instead the said amount was in the nature of profits and gains and since the same were not immediately required by the assessee for lending money to the members, it was deposited in the bank on which interest income was earned and the same has been claimed as deduction under section 80P(2)(a)(i) of the Act.

13. We find that while deciding a similar issue the Hon'ble Jurisdictional High Court in Tumkur Merchants Souharda Credit Co-operative Ltd. Vs. ITO, Ward-V, Tumkur, (2015) 55 taxmann.com 447 (Kar), after considering the decision of the Hon'ble Supreme Court in Totgar's Co-operative Sale Society Ltd (supra), held that the interest earned by the Co-operative Society, which is engaged in the business of providing credit facilities to its members, from deposit of excess amount for short term in bank is eligible for deduction under section 80P(2)(a)(i) of the Act. The relevant findings of the

Hon'ble Jurisdictional High Court, in the aforesaid decision, are as follows:-

*"6. From the aforesaid facts and rival contentions, the undisputed facts which emerges is, the sum of Rs. 1,77,305/- represents the interest earned from short-term deposits and from savings bank account. The assessee is a Cooperative Society providing credit facilities to its members. It is not carrying on any other business. The interest income earned by the assessee by providing credit facilities to its members is deposited in the banks for a short duration which has earned interest. Therefore, whether this interest is attributable to the business of providing credit facilities to its members, is the question. In this regard, it is necessary to notice the relevant provision of law i.e., Section 80P(2)(a)(i):*

*"Deduction in respect of income of co-operative societies:*

*80P (1) Where, in 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:*

*in the case of co-operative society engaged in-  
carrying on the business of banking or providing credit facilities to its members, or  
(ii) to (vii)*

*the whole of the amount of profits and gains of business attributable to any one or more of such activities."*

7. The word 'attributable' used in the said section is of great importance. The Apex Court had an occasion to consider the meaning of the word 'attributable' as supposed to derive from its use in various other provisions of the statute in the case of *Cambay Electric Supply Industrial Co. Ltd. v. CIT* [1978] 113 ITR 84 (SC) as under:

*'As regards the aspect emerging from the expression "attributable to" occurring in the phrase "profits and gains attributable to the business of the specified industry (here generation and distribution of electricity) on which the learned Solicitor-General relied, it will be pertinent to observe that the legislature, has deliberately used the expression "attributable to" and not the expression "derived from". It cannot be disputed that the expression "attributable to" is certainly wider in import than the expression "derived from". Had the expression "derived from" been used, it could have with some force been contended that a balancing charge arising from the sale of old machinery and buildings cannot be regarded as profits and gains derived from the conduct of the business of generation and distribution of electricity. In this connection, it may be pointed out that whenever the legislature wanted to give a restricted meaning in the manner suggested by the learned Solicitor-General, it has used the expression "derived from", as, for instance, in section-80J. In our view, since the expression of wider import, namely, "attributable to", has been used, the legislature intended to cover receipts from sources other than the actual conduct of the business of generation and distribution of electricity.'*

8. Therefore, the word "attributable to" is certainly wider in import than the expression "derived from". Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression

*"attributable to" being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Cooperative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived on the capital, if not immediately required to be lent to the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.*

*9. In this context when we look at the judgment of the Apex Court in the case of M/s. Totgars Co-operative Sale Society Ltd., on which reliance is placed, the Supreme Court was dealing with a case where the assessee-Cooperative Society, apart from providing credit facilities to the members, was also in the business of marketing of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount which was payable to its members from whom produce was bought, was invested in a short-term deposit/security. Such an amount which was retained by the assessee - Society was a liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P(2)(a)(i) of the Act or under Section 80P(2)(a)(iii) of the*

*Act. Therefore in the facts of the said case, the Apex Court held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act. Further they made it clear that they are confining the said judgment to the facts of that case. Therefore it is clear, Supreme Court was not laying down any law.*

*10. In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact this amount which is in the nature of profits and gains, was not immediately required by the assessee for lending money to the members, as there were no takers. Therefore they had deposited the money in a bank so as to earn interest. The said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of Section 80P(1) of the Act. In fact similar view is taken by the Andhra Pradesh High Court in the case of CIT v. Andhra Pradesh State co-operative Bank Ltd., [2011] 200 Taxman 220/12 taxmann.com 66. In that view of the matter, the order passed by the appellate authorities denying the benefit of deduction of the aforesaid amount is unsustainable in law. Accordingly it is hereby set aside. The substantial question of law is answered in favour of the assessee and against the revenue.”*

14. Therefore, respectfully following the aforesaid decisions of the Hon'ble Jurisdictional High Court, as noted above, we set aside the impugned order on this issue, and direct the AO to allow the deduction claimed by the assessee under section 80P(2)(a)(i) of the Act. As a result, the grounds no. 2 and 3 raised in assessee's appeal are allowed.

15. The issue arising in ground no.4 pertains to the claim of deduction under section 80P(2)(d) of the Act. Since we have already allowed the claim of deduction under section 80P(2)(a)(i) of the Act, therefore, the alternative claim under section 80P(2)(d) of the Act is rendered academic, and thus is left open.

16. Ground no. 1 is general in nature, and therefore, needs no separate adjudication.

17. In the result, the appeal by the assessee for the assessment year 2017-18 is allowed.

18. Since in the appeal of the assessee for the assessment years 2018-19 and 2020-21 the assessee has raised similar grounds arising out of a similar factual matrix, our findings/conclusions as rendered in assessee's appeal for the assessment year 2017-18 shall apply mutatis mutandis, and accordingly, the grounds raised therein are similarly adjudicated.

19. In the result, the appeal by the assessee for the assessment years 2018-19 and 2020-21 are allowed.

20. To sum up, all the appeals by the assessee before us are allowed.

Order pronounced in court on 14<sup>th</sup> day of November, 2025

Sd/-

**(PRASHANT MAHARISHI)**  
Vice President

Sd/-

**(SANDEEP SINGH KARHAIL)**  
Judicial Member

Bangalore  
Dated, 14<sup>th</sup> November, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore