

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.876/Bang/2025
(Assessment year 2018-19)**

Saunshi Urban Co-op Credit Society Ltd.

01 Saunshi Urban Co-op Credit Society Ltd.

Market Road Saunshi

Saunshi 581 117

[PAN: AAAAS5548Q]

..... **Appellant**

Income Tax Officer, Ward 1(1)

Bangalore

..... **Respondent**

Appearance

For the Appellant/Assessee : Ms. Harsha J.

For the Respondent/Department : Sri Subramanian

Date

Conclusion of hearing : 25.11.2025

Pronouncement of order : 28.11.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the Order, dated 11/03/2025, passed by the National Faceless Appeal Centre (NFAC), New Delhi [hereinafter referred to as 'the **CIT(A)**'] [ITBA/NFAC/S/250/2024-25/1074357858(1)] passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby appeal against the Assessment Order, dated 26/03/2021, for the Assessment Year 2018-2019 was disposed off as partly allowed.
2. The Assessee has raised the following grounds of appeal:
 1. *The Order of the learned Commissioner passed under section 250 of the Act is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.*

2. *The Appellant denies to be assessed to tax on total income as determined by the learned AO of Rs. 54,05,866/- as against the total income reported by the Appellant of Rs.NIL on the facts and circumstances of the case.*
 3. *The learned Commissioner of Income-tax (Appeals) erred in passing the order without giving sufficient opportunities of being heard thus violating the principles of natural justice in the facts and circumstances of the case.*
 4. *The learned Commissioner of Income-tax (Appeals) failed to appreciate that the District/urban Co-operative Banks are co-operative Society which are registered under Karnataka State Co-operative Societies Act, 1959, then they are no a bank per-se governed by RBI, then interest income earned from deposits with these Banks are eligible for deduction u/s 80P(2)(d) of the Act.*
 5. *The learned Commissioner of Income-tax (Appeals) erred in not applying the principles of Supreme Court in the case of Kerala State Co-Operative Agricultural and Rural Development Bank Ltd. CIVIL APPEAL NO(S).10069 OF 2016 where Co-operative banks not governed by RBI-per se are eligible for deduction u/s 80P of the Act.*
 6. *The learned Commissioner of Income-tax (Appeals) failed to appreciate that the Appellant is entitled to deduction of interest/dividend income from District Co-operative Bank in the light of the latest jurisdictional ITAT judgements in the case of:*
 - a. *Vittal Grameena Sahakari Bank Niyamitha vs ITO, Ward 2(5) (ITA 895/Bang/2023)*
 - b. *M/s. Primary Agricultural Credit Co-operative Society Ltd vs. ITO, Ward-1, Puttur (ITA 1006/Bang/2023)*
 7. *Without prejudice, the Appellant is entitled to cost of funds u/s 57 of the Act if interest income is taxed u/s 56 of the Act as "IFOS".*
 8. *Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies himself liable to be charged to interest u/s. 234B of the Act, which under the facts and in the circumstances of the appellant's case deserves to be cancelled.*
 9. *The penalty proceedings initiated u/s 270A(2) of the Act are contrary to law on the facts and circumstances of the case*
3. The relevant facts in brief are that Assessee is a society registered under Karnataka State Co-operative Societies Act, 1959. The main object of the society is providing credit facilities to the members of

the society. For the Assessment Year 2018-2019, the Assessee filed return of Income declaring 'Nil' income after claiming deduction of INR.54,05,866/- under Section 80P of the Act. The case of the Assessee was selected for scrutiny. During the assessment proceedings, the Assessing Officer noted that the Assessee had earned (a) interest income of INR.45,72,083/- from investments made in with commercial banks and (b) other interest income of INR.15,62,397/- which was not attributable to the business of lending. Therefore, the Assessing Officer concluded that the Assessee was not entitled to claimed deduction under Section 80P(2)(a)(i) of the Act in respect of the aforesaid interest income. Accordingly, the Assessing Officer disallowed deduction of INR.54,05,866/- claimed under Section 80P of the Act.

4. Being aggrieved, the Assessee preferred appeal before the Learned CIT(A) which was disposed off as partly allowed vide Order, dated 11/03/2025, impugned by way of the present appeal on the grounds reproduced in paragraph 2 above.
5. We have heard both the sides, have perused the material on record and have taken into consideration the judicial precedents cited during the course of hearing.
6. The Assessee has contended that interest income of INR.45,72,083/- was earned from investments made in Co-operative Banks and other banks out of compulsion under the Karnataka Co-operative Societies Act, 1959 and the applicable rules. According to the Assessee since the investments were made out of compulsion to comply with the statutory provisions and rules made thereunder, the interest income received out of such investment would qualify as 'business income' incidental to the main objects/business of the Assessee. Therefore, it was contended that the same is eligible for deduction under Section 80P(2)(a)(i) of the

Act.

- 6.1. We find that the decision of Bangalore Bench of the Tribunal in the case of **Primary Agricultural Credit Co-operative Society Ltd. Vs. ITO, Ward-1, Puttur (ITA No.1006/Bang/2023, dated 06/02/2024)** supports the aforesaid contention of the Assessee. In that case the Tribunal held as under:

"7. We have heard the rival submissions and perused the material on record. The claim of deduction under section 80P of the Act was denied by the AO primarily for the reason that assessee was dealing with non-members and had violated the principles of mutuality. In this context, the AO and the CIT(A) had relied on the judgment of the Hon'ble Apex Court in the case of Citizen Cooperative Society Ltd., (supra). We notice that the judgment of the Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Ltd., & Ors. Vs. CIT (supra) was relied on by the assessee before the CIT(A). However, there is no mention of the same in the order of the AO as well as before the CIT(A). The Hon'ble Apex Court in the case of Mavilayi Service Co-operative Bank Ltd., & Ors. Vs. CIT (supra) had held that assessee is entitled to proportionate deduction under section 80P of the Act for its dealing with its members. Assessee contends that it has been dealing with members and with non-members. Hence, it is entitled to deduction under section 80P(2)(a)(i) of the Act, in dealing with its members. We are of the view that the claim of deduction under section 80P of the Act needs to be examined afresh by the AO since the AO and the CIT(A) has not considered the dictum laid down by Hon'ble Apex Court in case of Mavilayi Service Cooperative Bank Ltd., & Ors. Vs. CIT (supra). Accordingly, the matter is restored to the files of the AO.

8. As regards the claim of deduction of interest income received from Cooperative Banks, it is the contention of the assessee that investments are in compliance with the requirement under the Karnataka Co-operative Societies Act, 1959, and the relevant Rules.

*Therefore, the interest income is entitled to deduction under section 80P(2)(a)(i) of the Act. On identical facts, the Bangalore Bench of the Tribunal in the case of Canara Bank Staff Credit Co-operative Societies Ltd., in ITA No.517/Bang/2023 (order dated 03.10.2023) had restored the matter to the AO to examine whether the amounts invested with the Cooperative Banks are out of compulsion under the Karnataka Co-operative Societies Act and the relevant Rules. **It was further held by the Tribunal that if the investments are out of compulsion under the Act and the relevant Rules, the interest income received out of the investment made under such compulsion would be liable to be taxed as 'income from business' which would entail the benefit of deduction under section 80P(2)(a)(i) of the Act.** The relevant finding of the Bangalore Bench of the Tribunal reads as follows:*

xx xx

9. In the event it is found that assessee is not entitled to get the benefit under section 80P(2)(a)(i) of the Act, the AO shall also examine whether it is entitled to deduction under section 80P(2)(d) of the Act in light of the recent judgment of the Hon'ble Apex Court in the case of Kerala State Co-operative Agricultural Rural Development Vs. AO (supra). It is ordered accordingly." (Emphasis Supplied)

- 6.2. Respectfully following the above decision of the Tribunal we direct the Assessing Officer to verify the investments on which interest income has been received from banks and in case the Assessing Officer is satisfied that the aforesaid investments were made to meet the statutory requirements of Karnataka State Co-operative Societies Act, 1959 and rules made thereunder, the Assessing Officer shall allow Assessee's claim for deduction under Section 80P(2)(a)(i) of the Act in respect of interest income earned on such investments.
- 6.3. In case the Assessing Officer comes to a conclusion that interest

income or part thereof is not allowable as deduction under Section 80P(2)(a)(i) of the Act, then the Assessing Officer is directed to provide to the Assessee deduction for such corresponding expenses as available as per the provisions of the Act while computing income under the head 'Income Form Other Sources'.

7. As regards, interest income received from the co-operative banks in concerned, it was contended on behalf of the Assessee that interest income earned by a co-operative society from fixed deposits or savings accounts with cooperative banks is eligible for deduction under Section 80P(2)(d) of the Act. Reliance in this regard was placed in judicial precedents listed in Ground No.5 & 6 above.
 - 7.1. In the case of **Mavilayi Services Co-operative Bank Limited Vs. CIT, Calicut: [2021] 431 ITR 1 (SC) [12/01/2021]**, the Hon'ble Supreme Court has held that for purposes of eligibility for deduction, the assessee must be a "*co-operative society*". A co-operative society is defined in Section 2(19) of the Act, as being a co-operative society registered either under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies. Section 2(19) of the Act refers only to the factum of a co-operative society being registered under the 1912 Act or under the State law. [*refer to paragraph 28 of the judgment*]
 - 7.2. It was further held that the limited object of Section 80P(4) of the Act was to exclude the co-operative banks that were function at par with other commercial banks (i.e. which lend money to members of the public) from the scope of benefit extended by Section 80P of the Act; and that the provisions of Section 80P(4) of the Act would not be attracted in case of interest/dividend income received by a co-operative society provided such co-operative society receiving dividend/interest income is not holding a banking license issued by

Reserve Bank of India to lend money to public. [*refer to paragraph 20 to 22 of the judgment*].

- 7.3. In the present case it is admitted position that the Assessee is a registered as a co-operative society under the Karnataka State Co-operative Societies Act, 1959. Further, the Assessee also does not hold a valid banking license issued by the RBI. Therefore, the Assessee would not be hit by the provisions contained in Section 80P(4) of the Act and would be eligible to claim deduction under Section 80P(2)(d) of the Act.
- 7.4. For the purpose of granting benefit of deduction under Section 80P(2)(d) of the Act by what is relevant is that interest/dividend should have been derived by a co-operative society from investment in another co-operative society (which may be functioning as a co-operative bank). Unlike Section 80P(2)(a) of the Act wherein expression '*profits and gains of business*' has been used, Section 80P(2)(d) of the Act uses the expression '*any income by way of interest or dividend*'. Given the clear language of Section 80P(2)(d) of the Act, for the purpose of granting benefit of deduction under Section 80P(2)(d) of the Act that fact that interest/dividend income is in the nature of '*profits and gains*' or '*income from other sources*' is not relevant. [*Refer to State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj) at Para 18, Pr. CIT Vs. Totagars co-operative Sale Society [2017] 392 ITR 74 (Karnataka) at para 11*]
- 7.5. In view of the above, we allow Assessee's claim for deduction under Section 80P(2)(d) of the Act in respect of interest income earned from co-operative banks. The Assessing Officer is directed to verify the quantum of interest income received from the co-operative bank and allow deduction for the same.
8. In terms of above, Ground No. 4 is allowed, while Ground No. 5 to

7 are partly-allowed. Since no arguments were advanced in relation to Ground No. 1 to 3 the same are dismissed as having not pressed.

- 8.1. Ground No. 8 dealing with levy and computation of interest is disposed off as being consequential in nature
- 8.2. Ground No. 9 pertaining to initiation of penalty proceedings, which are distinct from the assessment proceedings is dismissed as being premature.

In result, appeal preferred by the Assessee is partly allowed.

Order pronounced on 28.11.2025.

Sd/-
(Waseem Ahmed)
Accountant Member

Bangalore, Dated 28th Nov, 2025.
VG/SPS

Sd/-
(Rahul Chaudhary)
Judicial Member

Copy to:

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

By order

Asst. Registrar,
ITAT, Bangalore.