

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.707/SRT/2025

Assessment Year: (2017-18)

(Hybrid Hearing)

Vihan Vibhag Credit Co-operative Society Ltd., At & PO: Vihan, Tal – Kamrej, Tapi – 394320, Gujarat	Vs.	ITO, Ward – 2(2)(5), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABAV5113F		
(Appellant)		(Respondent)

Appellant by	Shri Akshay M. Modi, CA
Respondent by	Ms Neerja Sharma, Sr. DR
Date of Hearing	17/11/2025
Date of Pronouncement	27/11/2025

आदेश / O R D E R

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 09.09.2024 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short, 'CIT(A)'] for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the assessee are as under:

"1. On the facts and in the circumstances of the case as well in law, the CIT (Appeals), Bhubaneswar erred in upholding the order of the ITO, Ward 2(2)(5), Surat (for the sake of brevity "The AO") passed u/s 143(3) of the Act, without appreciating the past assessment "records" of the appellant co-operative society is purely on misleading, mis-conceptual, arbitrary and perverse observations and hence, being without jurisdiction, bad in law, in-valid, illegal, unwarranted of facts is liable to be quashed.

2. On the facts and in the circumstances of the case as well in law, both the lower authorities have erred in not allowing deduction u/s 80P(2)(d) of the Act

to the extent of Rs. 23,79,773/- and hence, the order passed under complete misconception, misconstruction and misinterpretation of the relevant provisions of law and facts of the case, is liable to be quashed.

3. On the facts and in the circumstances of the case as well in law, both the lower authorities have failed to appreciate that the appellant being the registered co-operative society engaged in the activity of providing credit facilities exclusively to its members-farmers, duly eligible for deduction u/s 80P(2)(d) of the Act and hence, the ex-parte order passed by the CIT(Appeals) denying the deduction u/s 80P(2)(d) of the Act is, being without jurisdiction, unwarranted of facts, arbitrary, perverse, bad in law, illegal and invalid, liable to be struck down.

4. Your appellant further reserves its rights to add, alter, amend or modify any of the aforesaid grounds before or at the time of hearing of an appeal.”

3. The appeal filed by the assessee is barred by limitation by 212 days in terms of provisions of section 253(3) of the Act. The assessee has filed an affidavit giving reasons for delay in filing the appeal of appeal before the Tribunal. The appellant submitted that Mr. Prativ Patel, tax consultant, was appointed to handle tax matter including filing return of income. The e-mail Id, i.e., hhhkabrawala@gmail.com of the earlier tax consultant was registered in the ITBA portal and he failed to comply with the notices issued by CIT(A). Thereafter, the appellant consulted to Shri Akshay M. Modi, CA who changed the e-mail id in the ITD portal. After receipt of penalty notice u/s 271(1)(c) of the Act, the appellant informed its new tax consultant who advised to file appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that the delay was neither wilful nor intentional. He requested that the delay may be condoned in the interest of justice.

4. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue submitted that the Bench may decide the matter as it thinks fit.

5. We have heard both the parties on this preliminary issue and find that because of the mistake of the earlier tax consultant, who has not informed the assessee, the delay of 212 days has occurred in filing appeal before the Tribunal. The assessee had given email Id of the tax consultant for receipt of notices, orders and communications. We note that assessee was not negligent but due to lack of legal advice of their earlier tax consultant, the delay has occurred. The reasons given in the affidavit for condonation of delay would constitute sufficient cause for the delay in filing this appeal. We, therefore, condone the delay and admit the appeal for hearing.

6. The facts of the case in brief are that the assessee is a co-operative society, filed its return of income for AY 2017-18 on 18.07.2017, declaring total income at Rs. Nil. The case was selected for limited scrutiny under CASS. Various notices u/s 143(2) and 142(1) of the Act were issued on 10.08.2018 and 23.01.2019. The Assessing Officer (in short, 'AO') observed that assessee had claimed Rs.13,57,365/- as deduction under Chapter VIA u/s 80P of the Act. The assessee society earned interest income of Rs.10,30,004/-, which was allowable u/s 80P(2)(a)(i) of the Act. As per section 80P(2)(d) of the Act, deduction is available in respect of income by way of dividend and interest received by the co-operative society on its investment with any other co-operative society. However, the assessee had received interest income and dividend income from

co-operative bank and not from co-operative society. The AO did not allow the deduction by holding that section 80P(2)(d) of the Act does not provide for deduction if interest income and dividend received by the assessee Co-op. society is from its investment with Co-op. Bank in view of the restriction provided in sub-section (4) of section 80P of the Act. The AO has discussed provisions of section 80P(2)(d) of the Act and relying on the decision in case of CIT vs. Bankimpur Club Ltd., 226 ITR 97 (SC) and CIT vs. Adarsh Hsg Co-op Soc. Ltd., 213 ITR 677 (Guj.), he held that co-operative bank is rightly excluded from availing the benefits of deduction u/s 80P of the Act. As per section 80P(2)(d) of the Act, the co-operative banks cannot be considered as co-operative societies. Accordingly, the AO disallowed the interest income of Rs.23,79,773/- earned from co-operative bank and added it to the total income. He determined the total income of Rs.23,79,773/- as against returned income of Rs.Nil.

7. Aggrieved by the order of AO, the assessee filed the appeal before the CIT(A). The appellant raised a ground regarding disallowance of deduction u/s 80P of the Act. The CIT(A) observed that the AO elaborately discussed as to how Surat District Co-op. Bank is not Co-op. Society as defined u/s 2(19) of the Act. He relied on the decision of Hon'ble Supreme Court in case of Federal Bank Ltd. vs. S. Srinivasam (2019). He further relied on the decisions in cases of PCIT vs. Totagars Co-op. Sale Society, 395 ITR 611/78 taxmann.com 169 (Kar.), Totagars Co-op. Sales Society Ltd. vs. ITO, 322 ITR 283 (SC) and held that the appellant is not eligible to avail of the deduction of interest of Rs.23,79,773/- received from Co-op. Banks. He also held that Surat District Co-op. Bank is not a co-op.

Society. As such any investment of the assessee in such bank cannot be treated as investment in a co-op. Society. The interest earned from the investment made with the Surat District Co-op. Bank is not liable for deduction u/s 80P of the Act. Accordingly, he dismissed the appeal of the appellant.

8. Aggrieved by the order of CIT(A), both the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee filed a paper book and submitted that the assessee-society was engaged in the business of providing credit facilities to the agriculturist and loans to the member under the scheme, namely, Kishan Credit Card (KCC). The assessee society was registered under Gujarat Co-operative Societies Act, 1962. He submitted that both the lower authorities have disallowed the deduction u/s 80P(2)(d) of the Act by following the decision of Totagar Co-op. Sale Society Ltd. vs. ITO (supra). He submitted that the decision of Hon'ble Gujarat High Court in case of PCIT vs. Ashwinkumar Arban Co-op. Soc. Ltd., (2024) 168 taxmann.com 314 (Guj) has considered and distinguished the order passed by the Hon'ble Supreme Court in case of Totagars Co-operative Sales Society Ltd. (supra) and held that deduction u/s 80P(2)(d) is available to Co-operative Societies on income earned as interest on investment made with co-operative bank, which in turn is a co-operative society itself.

9. On the other hand, the Id. Sr. DR for the revenue supported the orders of lower authorities.

10. We have heard both the parties and perused the material available on record. We have also deliberated on the decisions relied upon by both sides.

The grounds raised by the appellant pertains to the deduction claimed u/s 80P(2)(d) of the Act on account of interest on investment held with Surat District Co-operative Bank Ltd. There is no dispute that the Surat District Co-operative Bank Ltd. is a co-operative society duly registered under Gujarat Co-operative Societies Act, 1961. The Id. AR has relied on the decisions of the Hon'ble jurisdictional High Court in case of Ashwinkumar Arban Co-operative Society Ltd. (supra), wherein the Hon'ble jurisdictional High Court held that deduction u/s 80P(2)(d) is available to co-operative societies on income earned as interest on investment made with co-operative bank, which in turn is a co-operative society. In case of Ashwanikumar Arban Co-op. Society Ltd. (supra), it was held as under:

“28. Having heard learned advocates for the respective parties and considering the controversy arising in these tax appeals, we are of the opinion that the controversy sought to be canvassed with regard to deduction under section 80P(2)(d) of the Act is no more res integra in view of the decision of this Court in case of Katlary Kariyana Merchant Sakhari Sarafi Mandali Ltd. (supra) as well as in case of State Bank of India (supra) wherein it was held that the deduction of under section 80P(2)(d) of the Act is available to the cooperative societies on the income earned as interest on the investment made with the cooperative bank which in turn, is a cooperative society itself.

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33. In view of the above dictum of law as well as the provisions of the Act which are considered we are of the opinion that the provisions of section 80P(2)(d) would be applicable in the facts of the case and the PCIT was not justified in invoking revisional powers under section 263 of the Act which is rightly reversed by the Tribunal holding that the cooperative bank is a cooperative society registered under the Gujarat State Cooperative Societies Act and in view of the various decisions of the Court, the Tribunal after following the same has come to the conclusion that the assessment was not erroneous allowing deduction of section 80P(2)(d) of the Act which is in consonance with the various decisions of the Court as a twin condition invoking section 263 as to the assessment being erroneous and prejudicial to the interest of the revenue are not being fulfilled.”

11. We find that in the subsequent decision in case of PCIT vs. Rajkot Lodhika Sahakari Kharid Vechan Sangh Ltd., 176 taxmann.com 71 (Guj.), the Hon'ble jurisdictional High Court followed the above decision in case of Ashwinikumar Arban Co-operative Society Ltd. (supra) and held that co-operative bank is a co-operative society and interest earned from co-operative bank is eligible for deduction u/s 80P(2)(d) of the Act. The facts of the instant case are similar to the facts of the case discussed above. Hence, respectfully following the decisions cited supra, the ground raised by the assessee are allowed.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 27/11/2025.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Surat

दिनांक/ Date: 27/11/2025

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat