

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT**

<b>ITA No. 1649/Bang/2025</b>
<b>Assessment Year : 2020-21</b>

M/s. Nandini Credit Co-operative Society Limited, No. 14/5, Saraswathipura Main Road, Ganesha Block, Nandini Layout, Bangalore – 560096 <b>PAN: AABAN8397F</b>	<b>Vs.</b>	The Income Tax Officer, Circle 4(2)(3), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Mahesh Kumar L, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Department

Date of Hearing	:	04-11-2025
Date of Pronouncement	:	03-12-2025

**ORDER**

**PER PRASHANT MAHARISHI, VICE – PRESIDENT**

1. ITA No. 1649/Bang/2025 is filed by M/s. Nandini Credit Co-operative Society Limited for the assessment year 2020-21 against the Appellate Order passed by the National Faceless Appeal Centre, Delhi (NFAC) (the Ld. CIT(A)) dated 16.06.2025 wherein the Appeal filed by the Appellant against the Assessment Order passed u/s. 143 (3) r.w.s. 144 (B) of the Income Tax Act, 1961 (the Act) dated 26.09.2022 by the Assessment Unit, Income Tax Department for the impugned assessment order was partly allowed.
2. The Assessee is aggrieved and is in appeal before us raising the following grounds:-
  1. *The impugned order passed by the learned Commissioner of Income-tax [Appeals] u/s 250 by upholding partially the Assessment order of the learned assessing officer passed under Section 143(3) of the Act to*

*the extent which is against the appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.*

- 2. The appellant denies his liability with regard the total Income confirmed by the CIT(A)-NFAC amounting to Rs. **8,98,286/-** (partial upholding order of Ld.AO) as against the income reported by the appellant of Rs **Nil/-** on the facts and circumstances of the case.*
- 3. The Ld. CIT(A) is not justified in upholding the disallowance made by ld. AO to an extent of Rs. 8,98,286/- holding that the assessee had option to invest the amount other than co-operative bank as per section 58. The Ld. CIT(A) has not found any violation in investment made as per section 58 of Karnataka state co-operative society Act 1959.*
- 4. The addition made to an extent of Rs.**8,98,286/-** is part of Actual Business Income/income from other source is only Rs. 23,26,246/-. The appellant has invested its surplus funds (admitted by AO), and said funds have direct nexus with earning of Interest Income from deposit, the profits are "attributable" to business of assessee and thereby eligible for deduction under section 80P(2)(a)(i).*
- 5. Without further prejudice the learned authorities below ought to have allowed the corresponding expenditures proportionately on income earned by the appellant from investments which was claimed as deduction under section 80 P [2][d] of the Act, on the facts and circumstances of the case.*
- 6. Without prejudice though not conceding, in the alternative, the learned assessing officer ought to have allowed the deduction either under section 80P[2][a][i] **or** under section 80P[2][d] of the Act proportionately on the income which is not in violation of the provisions of the Act on the facts and circumstances of the case.*

### **Other Issues**

- 7. Principle of Natural Justice violated: The learned CIT(A) passed an order without providing sufficient opportunity, more specifically the learned AO has passed an order even without serving any hearing notice, the matter was dismissed for non-response to clarification on column 8 and 9, of form 35 on allegation of incomplete form 35. The said finding of fact is arbitrary and mere surmise. The form is complete in all aspects. Hence the order passed by the Learned CITA(A) is*

*against the principles of natural justice and thus the additions confirmed needs to be deleted on the facts of the case.*

8. *Interest: Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies herself liable to be charged to interest under section 234 B of the Income Tax Act on the facts and circumstances of the case. Further the levy of interest under section 234 B of the Act is also bad in law as the period, rate, quantum and method of calculation adopted on which interest is levied are all not discernible from the assessment order and are wrong on the facts of the case.*
  9. *The appellant craves leave of this Hon'ble Tribunal to add, alter, modify, delete or substitute any or all of the above grounds of appeal as may be necessary at the time of hearing of the appeal.*
  10. *For these and other grounds that may be urged at the time of hearing of appeal, the Appellant prays that the appeal may be allowed for the advancement of substantial cause of justice and equity.*
3. The brief facts of the case show that Assessee is a Co-operative Society providing credit to its members. It filed its return of Income on 11.01.2021 at Rs. Nil/-. This return was picked up for scrutiny. The issue was that Assessee has claimed deduction under Section 80P of the Act. The Ld. Assessing Officer noted that Assessee has earned interest on investment and fixed deposit as income from business profits and has claimed that it is a business income. It claimed deduction u/s. 80P(2)(a)(i) of the Act.
  4. The Id. AO treated interest income as income from other sources and did not grant any reduction to that extent. He allowed only the deduction of Rs. 24,37,071/- as business income. Thus, he did not allow the deduction also u/s. 80P(2)(a) (i) or u/s (d) of the Act relying upon the decision of the Hon'ble Karnataka High Court dated 16.06.2017.
  5. This Assessment Order was challenged before the Ld. CIT(A) who held that interest income earned by the Assessee from the Co-operative Bank is eligible for deduction as income from other sources u/s. 80P(2)(d) of the Act and allowed part deduction and confirmed the disallowance of Rs. 8,98,286/- .

6. The Assessee is aggrieved with the order as he has only allowed partly deduction.
7. The Ld. Authorized Representative submitted that interest details are available at page 32 of the order of the CIT(A). The Assessee has claimed deduction as business income, there is no reason that it should be treated as income from other sources. Even otherwise, the interest is earned from Co-operative banks. Hence, deduction should be allowed u/s. 80P(2)(a)(i) or also alternatively u/s. 80P(2)(d).
8. The Ld. Departmental Representative supported the order of the Ld. lower authorities.
9. I have carefully considered the rival contentions and perused the order of the lower authorities. I find that only dispute in this case is not allowing the deduction to the Assessee amounting to Rs. 8,98,286/- being interest of Rs. 3,03,968/- from the Co-operative Bank and further a sum of Rs. 5,94,318/- being interest from the District Central Co-operative Bank. Undisputedly, the Ld. CIT(A) has allowed deduction of Rs. 14,29,960/- being interest from deposit with the Co-operative Society. I have considered the fact that claim of the Assessee is u/s. 80P(2)(a)(i) of the Act and u/s. 80P(2)(d) of the Act. It is merely an alternative submission. There is no finding by the Assessing Officer or the Ld. CIT(A) that interest income earned from the Co-operative Bank and District Central Co-operative Bank are not business income but only income from other sources.
10. Merely because of a decision of the Hon'ble High Court in case of Totgara sales he has considered the same as income from other sources. There is another decision of the Hon'ble High Court which is also dealing with the same issue of deduction u/s. 80P(2)(a)(i) of Hon'ble Karnataka High Court in the case of the same Assessee which has held that Assessee is eligible for deduction u/s. 80P(2)(a)(i) of the Act even on the interest income earned. Another decision of the Hon'ble High Court dated 05.01.2017 has categorically considered the

same decision of the Hon'ble Supreme Court and held in Paragraph No. 8 that Co-operative bank is also a Co-operative Society. It also stated that the deduction is allowable to the Assessee u/s. 80P(2)(d). There is also a decision of the Hon'ble Karnataka High Court on 16.06.2017 which has considered this decision and in Paragraph No. 19 has clearly distinguished it . Therefore, at present both the decisions of the Hon'ble High Court are also on the similar issue but have taken a divergent view. Distinguishing feature pointed out in para no. 19 is very important of the decision dated 16.06.2017.

11. When there are two decisions of the Hon'ble High Court both are binding precedents, the decision must be taken following the one, facts of which are nearer to the facts of the case of this assessee. I find that as the issue of deduction in this case is under section 80 P (2) (a) (i) of the act , it is nearer to the decision rendered by Hon'ble Karnataka High court on 05.01.2017 .

12. Accordingly, I respectfully follow the decision of the Hon'ble Karnataka High Court dated 05.01.2017, direct the Ld. Assessing Officer to delete the impugned disallowance. Accordingly, the Ld. AO is directed to grant deduction u/s. 80P(2)(a)(i) of the Act to the Assessee on the sum of Rs. 8,98,286/- u/s. 80P(2)(a)(i) of the Act.

13. Thus, Appeal of the Assessee is allowed.

Order pronounced in the open court on 3<sup>rd</sup> December 2025.

Sd/-  
(PRASHANT MAHARISHI)  
Vice – President

Bangalore,  
Dated, the 3<sup>rd</sup> December 2025.

\*TNTS\*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore