



आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.934/PUN/2025

निर्धारण वर्ष / Assessment Year: 2017-18

Shri Murli Manohar Nagari SahakariPatsansthaMaryadit, 1295, Pimpal Par, M.G.Road, Juni Peth, Mahad, Mahad – 402301. Maharashtra.	V s.	Income Tax Officer.
PAN: AABAS5404L		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Anup Shaha
Revenue by	Shri Dayanand Jawalikaar–Addl.CIT(DR)
Date of hearing	14/10/2025
Date of pronouncement	30/10/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal is filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income Tax Act, 1961 for A.Y.2017-18, dated 11.03.2024 emanating from Assessment Order u/s.143(3) r.w.s 263 read with section 144B of the I.T.Act, dated 17.03.2023. The assessee has raised following grounds of appeal :



“1. On facts and circumstances of the case and in law, it be held that Ld. CIT(A) has erred in confirming and Ld. AO has erred in making an addition of 1,62,28,239/- on directions of Ld. Pr. CIT as the Ld. Pr. CIT has erred in assuming jurisdiction u/s 263 by holding that the Ld. AO failed to examine and verify the deduction claimed u/s 80P(2)(d) and subsequently in setting aside the assessment order passed u/s 143(3) dated 27.11.2019, with a direction to the Ld. AO to examine the deduction claimed by the assessee.

The order of the Ld. AD dated 14.02.2023 based on such incorrect directions under section 263 dated 17.03.2023 deserves to be quashed.

2. On the facts and circumstances of the case and in law, it be held the Ld. CIT(A) has erred in confirming the order of Ld. AO disallowing deduction of 1,62,28,239/- under section 80P of the Income-tax Act without considering the submission made by the appellant vide Form 35. It be held that the appellant is eligible for such deduction and appellant be granted just and proper relief in this respect.

3. On the facts and circumstances of the case and in law, it be held the Ld. CIT(A) has erred in confirming the order of the Ld. AO disallowing deduction under section 80P without appreciating the judgements relied by the appellant vide statements of Facts in Form 35. It be held that the appellant is eligible for such deduction and appellant be granted just and proper relief in this respect.

4. The appellant craves to add, amend, alter or leave any of the above grounds of appeal.”

Delay :

1.1 There is a delay of 334 days in filing appeal before this Tribunal. WE have perused the Affidavit submitted by the Assessee and are convinced that there is sufficient and reasonable cause for the delay. Therefore, the Delay is condoned.

2. We have heard both the parties and perused the records. In this case, Assessee is a Co-operative Credit Society registered under



Maharashtra Co-operative Societies Act, providing credit facilities to its members. Assessee filed Return of Income for A.Y.2017-18 on 14.10.2017 declaring total income at Rs.NIL. The Assessee's case was selected for scrutiny to verify large deduction under Chapter-VIA of the Act and cash deposits. Accordingly, Assessing Officer issued notice u/s.143(2) of the Act on 09.08.2018. The Assessment in the case of assessee for A.Y.2017-18 was completed u/s.143(3) on 27.11.2019 accepting the returned income at Rs.NIL(page 13 to 14 of paper book). In the order under section 263, it is mentioned that based on the Internal Audit Party Audit Memo dated 13.12.2021 notice u/s.263 of the Act was issued. The Order u/s.263 of the Act, was passed by PCIT-1, Thane on 24.03.2022. Then, the Assessing Officer passed an assessment order u/s.143(3) r.w.s 263 on 17.03.2023.

2.1 The Assessing Officer in the assessment order under section 143(3) r.w.s263 noted as under :

“On perusal of Profit & Loss A/c of the assessee, it has been noticed that the assessee received interest from members to the tune of Rs.4,11,53,323/-. Apart from above, the assessee society also received interest income amounting to Rs.1,45,49,749/- out of deposits/investments with Co-operative Banks which was claimed deduction u/s 80P of the I T Act in return of income filed by the assessee



for year under consideration. As the assessee received the interest income to the tune of Rs.1,45,49,749/- from deposits made with other than Co-operative Societies which is not allowable u/s 80P(2)(d) as well as 80P(2)(a)(i) of the I T Act.”

2.2 The Assessing Officer disallowed assessee's claim of deduction u/s.80P of the Act.

3. Aggrieved by the Assessment Order the Assessee filed appeal before the Ld.CIT(A) who confirmed the Assessment Order.It is an admitted fact that the Assessee is a co-operative credit society registered under Maharashtra Cooperative societies Act.

4. As per the submission of the Assessee dated 16.11.2019 made during assessment proceedings (page no.18 to 28 of the paper book), the Assessee have fixed deposits in following :

- IDBI Bank
- Saraswat Cooperative Bank
- Karnala Nagari Sahakari Bank
- Jankalyan Cooperative Bank
- RDCC Bank
- MAHAD Nagari Cooperative Bank
- Navi Mumbai Cooperative Bank



4.1 The Assessee has received Interest Income from the Fixed Deposits kept with above entities, in addition to the Interest received from its members on disbursement of loan.

4.2 Hence, the issue before us is whether the Interest earned from above mentioned Co-operative Banks is eligible for deduction u/s.80P of the Act or not !

4.3 The Hon'ble High Court of Andhra Pradesh and Telangana in the case of Vavveru Co-operative Rural Bank Ltd. [2017] 396 ITR 371 analysed the provisions of Section 80P, succinctly distinguished the decision of Hon'ble Supreme Court in the case of Totagars Cooperative Sale Society, and held as under :

Quote, "8. Therefore, the real controversy arising in these writ petitions is as to whether the income derived by the petitioners by way of interest on the fixed deposits made by them with the banks, is to be treated as profits and gains of business attributable to any one of the activities indicated in sub-clauses (i) to (vii) of clause (a) of sub-section (2) of section 80P or not.

9. While the petitioners place strong reliance upon a decision of the Division Bench of this court in CIT v. Andhra Pradesh State Co-operative Bank Ltd. [2011] 12 taxmann.com 66/200 Taxman 200/336 ITR 516, the Revenue places strong reliance upon the decision of the Supreme Court in Totgar's Co-operative Sale Society Ltd. v. ITO [2010] 188 Taxman 282/322 ITR 283.



.....

34. The case before the Supreme Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) was in respect of a co-operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of marketing agricultural produce of the members of the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) that the business activity other than marketing of the agricultural produce actually resulted in net loss to the society. Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that the assessee did not pay to its members the proceeds of the sale of their produce, but invested the same in banks. As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members. The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note.

35. But, as rightly contended by the learned senior counsel for the petitioners, the investment made by the petitioners in fixed deposits in nationalised banks, were of their own monies. If the petitioners had invested those amounts in fixed deposits in other co-operative societies or in the construction of godowns and warehouses, the respondents would have granted the benefit of deduction under clause (d) or (e), as the case may be.



36. The original source of the investments made by the petitioners in nationalised banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".

37. Therefore, we are of the considered view that the petitioners are entitled to succeed. Hence, the writ petitions are allowed, and the order of the Assessing Officer, in so far as it relates to treating the interest income as something not allowable as a deduction under section 80P(2)(a), is set aside." Unquote.

4.4 Thus, the Hon'ble High Court of AP & TS held that Interest Income earned by investing Income derived from Business of providing credit facilities, Loans by a Co-Operative Society was eligible for deduction u/sec.80P(2)(a) of the Act.

5. In the case of Sahyadri Co-operative Credit Society Limited, the Sahyadri Co-operative Credit Society had deposited excess funds in the Banks or Institutions permitted by the Co-operative Societies Act. In that context, the Hon'ble Kerala High Court in the case of Pr.CIT Vs. Sahyadri Co-operative Credit Society Ltd., [2024] 301 Taxman 36 (Kerala) vide order dated 04.09.2024 has held as under :



Quote “7. On a consideration of the rival submissions, we are of the view that for the reasons stated hereinafter, the question of law that arises for consideration before us must be answered against the Revenue and in favour of the assessee. The permissible deduction that is envisaged under Section 80P(2) of the I.T. Act for a Co-operative Society that is assessed to tax under the head of 'Profits and Gains of Business or Profession' is of the whole of the amount of profits and gains of business attributable to any one or more of its activities. Thus, all amounts as can be attributable to the conduct of the specified businesses by a Co-operative Society will be eligible for the deduction envisaged under the statutory provision. The question that arises therefore is whether, merely because the assessee chooses to deposit its surplus profit in a permitted bank or financial institution, and earns interest on such deposits, such interest would cease to form part of its profits and gains attributable to its business of providing credit facilities to its members? In our view that question must be answered in the negative, since we cannot accept the contention of the Revenue that the interest earned on those deposits loses its character as profits/gains attributable to the main business of the assessee. It is not as though the assessee in the instant case had used the surplus amount [the profit earned by it] for an investment or activity that was unrelated to its main business, and earned additional income by way of interest or gain through such activity. The assessee had only deposited the profit earned by it in the manner mandated under Section 63 of the Multi-State Co-operative Societies Act, or permitted by Section 64 of the said Act. In other words, it dealt with the surplus profit in a manner envisaged under the regulatory Statute that regulated, and thereby legitimized, its business of providing credit facilities to its members. Under those circumstances, if the assessee managed to earn some additional income by way of interest on the deposits made, it could only be seen as an enhancement of the profits and gains that it made from its principal



activity of providing credit facilities to its members. The nature and character of the principal income [profits earned by the assessee from its lending activity] does not change merely because the assessee acted in a prudent manner by depositing that income in a bank, instead of keeping it in hand. The provisions of the I.T. Act cannot be seen as intended to discourage prudent financial conduct on the part of an assessee.” Unquote

5.1 Thus, even Hon’ble Kerala High Court has held that the character of income does not change. The Hon’ble Kerala High Court held that interest earned from deposits in permitted banks will be eligible for deduction u/s.80P of the Act. The Hon’ble Kerala High Court’s decision is dated 04.09.2024 means, after the decision of Hon’ble Supreme Court in the case of Totagar’s Co.operative Sales Society Ltd.

6. The Hon’ble Supreme Court in the case of Pr.CIT Vs. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., 454 ITR 117 (SC) has held as under :

Quote. “5. There are concurrent findings recorded by CITA, ITAT and the High Court that the respondent/Assessee cannot be termed as Banks/Cooperative Banks and that being a credit society, they are entitled to exemption under section 80(P)(2) of the Income-tax Act. Such finding of fact is not required to be interfered with by this Court in exercise of powers under Article 136 of the Constitution of India. Even otherwise, on merits also and taking into consideration the CBDT



Circulars and even the definition of Bank under the Banking Regulation Act, the respondent/Assessee cannot be said to be Co-operative Bank/Bank and, therefore, Section 80(P)(4) shall not be applicable and that the respondent/Assessee shall be entitled to exemption/benefit under section 80(P)(2) of the Income-tax Act.

6. In view of the above and for the reasons stated hereinabove, the present appeal deserves to be dismissed and is accordingly dismissed, answering the question against the Revenue and in favour of the Assessee.” Unquote

6.1 The above order of Hon’ble Supreme Court was rendered in the context of the appeal filed by the Revenue against the order dated 14-10-2019 passed by the Hon’ble High Court of Judicature at Bombay in ITA No.933/2017, by which the High Court has dismissed the said appeal preferred by the Revenue.

7. The Hon’ble Bombay High Court’s order in ITA No.933/2017 vide order dated 14.10.2019 in the case of Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., emanates from the ITAT order in ITA No.2515/MUM/2014 dated 20.05.2016. The facts recorded in the ITAT order in ITA No.2515/MUM/2014 are that Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., is a Co-operative Credit Society registered under the Maharashtra Co-operative Society Act, had claimed deduction under section 80P(2)(d) of the



Income Tax Act, 1961 as well as Rs.5,85,57,676/- claimed under section 80P(2)(a)(i) of the Act. The Assessing Officer disallowed the claim of deduction u/s.80P(2) in the case of Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd. The Revenue in the appeal filed before ITAT in ITA No.2515/MUM/2014 has raised following questions:

“(i) On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the AO amounting to Rs.5,85,57,676/- u/s.80P(2)(a)(i) and Rs.1,39,23,333/- u/s.80P(2)(d) of the I.T. Act even though assessee was carrying on banking business.

(ii) On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in not considering the fact that amendment to Sec.80P(4) inserted w.e.f. 1.4.2007 by Finance Act, 2006 clearly bans all the co-operative banks other than primary agricultural credit society or a primary co-operative agricultural and rural development banks from claiming exemption under this section”.

7.1 The appeal filed by Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., travelled up to Hon’ble Supreme Court and the Hon’ble Supreme Court has decided the appeal in favour of Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd., regarding deduction u/s.80P(2) of the Act. Therefore, this issue has attained finality.



8. Respectfully following the judicial precedent, we direct the Assessing Officer to allow deduction u/sec.80P(2)(a)(i) of the Act on the interest earned. Accordingly, Ground No.2 and 3 raised by the assessee are allowed.

8.1 Ground No.1 is not adjudicated as it is against the order under section 263 of the Act, which cannot be considered at this stage, where the assessee has filed appeal against order under section 250 of the Act. Hence, Ground No.1 is dismissed.

8.2 Ground No.4 is general in nature, needs no adjudication, hence, dismissed.

9. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 30 October, 2025.

Sd/-
VINAY BHAMORE
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30 Oct, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.



5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.