

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

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

ITA No. 1518/Bang/2025
Assessment Year : 2017-18

M/s. The Karnataka State Regn and Stamps Department Officials Multi-purpose Co-op Society Ltd., No. 13/A, 8 th Main Road, 4 th Block, Rajajinagar, Bengaluru – 560 010 PAN: AAATT1708N	Vs.	The Assistant Commissioner of Income Tax, Circle-2(2)(1), Bangalore
APPELLANT		RESPONDENT

Assessee by	:	Shri Pranav Krishna, Advocate
Revenue by	:	Shri Subramanian – JCIT DR

Date of Hearing	:	12-11-2025
Date of Pronouncement	:	29-12-2025

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. ITA No. 1518/Bang/2025 is filed by M/s. The Karnataka State Regn and Stamps Department Officials Multi-purpose Co-op Society Ltd against the Appellate Order passed by the National Faceless Appeal Centre for Assessment Year 2017-18 on 05.07.2024 wherein the appeal filed by the Assessee is dismissed.
2. The brief fact of the case shows that the Appeal is time barred by 282 days because of the reason that the order of the Ld. CIT(A) passed on 05.07.2024 was received by the Assessee on 05.07.2024. But the

Appeal is filed by the Assessee on 08.07.2025 and therefore the Registry issued a Defect Memo stating that the Appeal is barred by 282 days. The Assessee has filed an application for condoning the delay. The main reason shown by the Assessee is that Assessee on the receipt of the original order was advised not to challenge the same as per its practitioners. The Assessee was pressed with the demand and therefore when the demand notice came, the Assessee approached the present counsel during the first week of July 2025 and also informed that their earlier counsel has advised not to challenge the above said order. The present counsel on verification of the order found that the case of the Assessee has a good case on the merits and as well as on the allowances of expenditure u/s. 57 of the Act and therefore he must prefer an Appeal. Soon, he went to the Assessee and immediately filed the Appeal. He was also advised to deposit the adequate fees for filing of the Appeal. The Assessee deposited a challan of Rs. 10,000/- on 03.07.2025 and thereafter filed appeal on 08.07.2025. Therefore, the delay is because of the sufficient cause being the wrong advice given by the erstwhile consultant and as soon as the Assessee received the correct advice it diligently filed the Appeal.

3. The Assessee supported the condonation of delay petition by filing an Affidavit of Shri Gajarajan Prakash, who is aged about 82 years and the president of the Society. He also confirmed the statement of facts made in the petition for condonation of delay.
4. The Ld. Authorized Representative Shri Pranav Krishna, Advocate reiterated the same facts and submitted that there is a sufficient cause shown in the application for condonation of the delay. He referred to several judicial precedents mentioned in paragraph no. 8 of the Petition.

5. The Ld. Departmental Representative Shri Subramanian, JCIT DR vehemently submitted that the delay of 282 days is enormous, and the cause shown by the Assessee is also not sufficient and therefore it cannot be condoned. Ld. DR relied up on the decision of Honourable Supreme court in Pathapati Subba Reddy (Died) by L. Rs. v. Special Deputy Collector (LA),
6. We have carefully considered the rival contentions and perused the petition filed by the Assessee. Provisions of the Act stipulates that where an appeal is not filed within the prescribed period of limitation, the same may be admitted if "sufficient cause" for such failure is shown. The court may, in its own discretion, proceed to condone the delay, if it is satisfied, that the Appellant had "sufficient cause" for not preferring the appeal within such period.
7. The law of limitation is founded on public policy. The object of limitation is to put a quietus on stale and dead disputes. A person ought not to be allowed to agitate his claim after a long delay. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. While there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor.

8. Hon'ble supreme court as relied by the Id DR in Pathapati Subba Reddy (Died) by L. Rs. v. Special Deputy Collector (LA), reported in MANU/SC/0285/2024 : 2024:INSC:286, summarized the principles governing the exceptions imagined under "sufficient cause" vis-à-vis substantive justice as under:-

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;
- (iv) In order to advance substantial justice, though liberal approach, justice oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;
- (vii) Merits of the case are not required to be considered in condoning the delay; and
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision."

9. Hon'ble supreme court recently in Neutral Citation: 2025 INSC 1104 Shivamma (Dead) by L.Rs. vs. Karnataka Housing Board and Ors. (12.09.2025 - SC) : MANU/SC/1262/2025 has held that :-

"123. From above, it is manifest that that the phrase "sufficient cause" in Section 5 of the Limitation Act is an expression of elastic import, incapable of precise definition, yet not without boundaries. Its purpose is to empower courts to advance the cause of justice by preventing genuine litigants from being shut out on account of unavoidable delays. At the same time, it is equally clear that the phrase is not a charter for indolence or a device to revive stale claims that the law of limitation otherwise extinguishes.

124. The burden to establish sufficient cause lies upon the party seeking condonation, and the court must be satisfied that the cause is real, bona fide, and free of negligence. Sufficiency of cause is to be determined contextually, on the totality of circumstances, with due regard to the conduct of the applicant and the prejudice caused to the opposite party. The inquiry is not mechanical but principled, resting on the dual pillars of bona fides and diligence.

125. The expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control.

126. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilize the certainty that limitation law seeks to secure.

127. The expression "sufficient cause" must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused.

i. Length of the delay may be instructive but not determinative.

128. When it comes to condonation of delay, the length of delay is immaterial, and what matters is the acceptability of the explanation. A short delay may still warrant dismissal if unsupported by sufficient cause, whereas even a long delay may be condoned if justified by circumstances demonstrating bona fides.

129. Delay by itself is not inherently indicative of negligence. In certain cases, unavoidable circumstances such as illness, fraud, miscommunication, or bona fide mistake may stretch over long periods, yet remain excusable if they are explained with candour and supported by material. Conversely, an unexplained delay of even a few days may reveal inaction or deliberate disregard of statutory timelines, and therefore disentitle the party to indulgence.

130. The quantum of delay has no direct nexus in law with sufficiency of the cause. The law are independent and diverse factors. Hence the extent of delay should not determine whether the cause is sufficient or not. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter; acceptability of the explanation is the criterion. The criterion for condoning the delay is sufficiency of reason and not the length of the delay.

131. The decisive factor is the adequacy of the cause shown, not the length of delay. What is critical is whether the party seeking condonation acted with reasonable diligence during the prescribed period and whether the reasons advanced demonstrate a genuine inability to file within time. Thus, the test is qualitative rather than quantitative.

132. This is not to say that the length of delay is irrelevant. A long delay naturally casts a heavier burden on the applicant to furnish cogent, credible, and convincing explanations. The proof required becomes stricter in proportion to the delay. The longer the time elapsed, the stronger the justification that must be put forth. Hence, length is instructive in determining the degree of scrutiny, but it is not determinative of the outcome.

133. The length of the delay functions as a contextual indicator but not a determinative factor. It alerts the court to the degree of rigour required in examining the explanation, yet the ultimate focus remains on whether "sufficient cause" has been shown. The doctrine thereby preserves both the integrity of statutory timelines and the imperative of doing justice in deserving cases.

134. Thus, in exercising discretion Under Section 5 of the Limitation Act the courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case, no such consideration may arise and such a case deserves a liberal approach. No hard-and-fast Rule can be laid down in this regard. The court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause", the principle of advancing substantial justice is of prime importance.

ii. Technical Considerations vis-à-vis Substantive Justice.

135. In construing "sufficient cause" it must be borne in mind that Rules of procedure are handmaids of justice. Procedural rigidity should not become an instrument of injustice. In the context of Section 5 of the Limitation Act, this balance assumes special significance. Courts have repeatedly underscored that while limitation provisions are founded on sound principles of finality and certainty, their application cannot be divorced from the overarching objective of ensuring that litigants are not shut out from the doors of justice merely on account of technicalities.

136. When technical considerations of limitation conflict with the imperative of substantial justice, the latter should ordinarily prevail. Rules of limitation are not designed to destroy the rights of parties but to prevent inordinate delay in seeking remedies. Thus, the interpretation of "sufficient cause" must be liberal and purposive, aimed at advancing the cause of justice rather than defeating it. This is why the courts, while construing applications for condonation of delay, emphasize the bona fides of the applicant over the sheer arithmetical length of the delay.

137. Where strict adherence to these Rules results in injustice, the Court is duty bound to apply a liberal interpretation of "sufficient cause" so as to balance technical requirements with the demands of justice. A litigant does not stand to benefit by lodging an appeal late, and therefore, a pragmatic and justice-oriented approach must inform the judicial discretion Under Section 5. This decision continues to be the most frequently cited authority for the proposition that the judiciary should incline towards justice rather than technicality. Therefore, when courts interpret "sufficient cause, " they are expected to exercise discretion in a manner that fosters justice, fairness, and equity, keeping in mind the realities of litigation.

138. When a Court of Law deals with an application to condone the delay filed Under Section 5 of the Limitation Act, such application will have to be generally viewed in a liberal and lenient way to do substantial justice between the parties. Section 5 of the Limitation Act must be liberally construed and applied so as to advance substantial justice. It is undoubtedly true that a justice oriented approach is necessary while deciding application Under Section 5 of Limitation. However, it cannot be said that in every case delay must necessarily be condoned. It is a condition precedent for Section 5 of the Limitation Act that there must be a sufficient reason for condoning the delay.

139. However, while substantial justice must be advanced, the law of limitation is equally binding, and "sufficient cause" must be shown in substance, not in empty form. This ensures that the balance between justice and certainty is not skewed in favour of unmerited litigants.

140. However, at the same time, the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether "sufficient cause" has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to

determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay.

141. Test of "sufficient cause" cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain.

142. Another practical reason why merits must not be considered at the stage of delay condonation is that it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. This ensures that the ultimate adjudication of rights occurs in a neutral and unprejudiced setting.

143. The law of limitation is meant to apply uniformly across cases, regardless of the intrinsic strength or weakness of the claims involved. To import merits into condonation proceedings would effectively dilute this uniformity."

Shivamma (Dead) by L.Rs. vs. Karnataka Housing Board and Ors.
(12.09.2025 - SC) : MANU/SC/1262/2025

10. Thus, if the cause shown by the assessee is found to be sufficient, then delay needs to be condoned.
11. It was shown that the Assessee was advised earlier to not to file the Appeal by the erstwhile counsel of the Assessee and when it approached the new counsel in the month of July 2025, the Assessee's office bearers were advised that they have a good case and at least they should have filed the Appeal. Based on this advice, the Assessee immediately filed the Appeal. In view of the above

facts, we find that the delay of 282 days deserves to be condoned and appeal of the Assessee is admitted as it is for sufficient cause.

12. The fact of the case shows that Assessee is a Co-operative society filed its return of income on 21.10.2017 at Rs. Nil/-. This return was selected for scrutiny for verification of deduction under chapter VI A and accordingly notice u/s. 143(2) of the Act was issued on 16.08.2018. The facts show that Assessee is a Co-operative Society carrying on the business of sale of document sheets, E-stamps and lending/borrowing from members. It has earned interest income of Rs. 1,06,99,450/- on its deposits with the Co-operative banks. After setting of the expenditure on the losses, it has claimed deduction u/s. 80P(2)(a)(i) of Rs. 69,41,759/-. The Assessee was asked that why the deduction claimed by the Assessee should not be deleted in view of the decision of the Hon'ble Karnataka High Court in case of Principal Commissioner of Income Tax v/s. Totgars Co-operative Sale Society (2017) 395 ITR 611 wherein the deduction u/s. 80P(2)(d) is denied. The Assessee submitted that Assessee is entitled to deduction. However, the Ld. Assessing Officer denied the deduction to the Assessee applying provisions of section 80P(2)(d) relying on the decision of the Hon'ble Karnataka High Court. The deduction was denied of Rs. 69,41,759/-. The Assessee preferred an Appeal before the Ld. CIT(A) wherein the Appeal of the Assessee was decided by upholding the action of the Ld. Assessing Officer. Therefore, the Assessee is in appeal before us.
13. The assessee has given a submission stating that jurisdictional High Court order in case of Tumkur merchants and state bank of India state cooperative credit society Ltd covers the issue in favour of the assessee. The learned assessing officer rejected the contention and followed the decision of the Totgars cooperative sales I society Ltd versus income tax officer 188 taxmann 282 (Supreme Court) and

also the decision of the honourable Karnataka High Court and held that such interest income is not eligible for deduction under section 80 P (2) (a) (i) of the act as it is chargeable to tax as income under the head income from other sources under section 56 of the act. The learned authorized representative vehemently supported the claim of the assessee in the return of income and stated that assessee is entitled to deduction under section 80 P (2) (a) (i) of the act as the interest income received from the cooperative banks is business income of the assessee. He further submitted that there is no finding in the assessment order that such interest income is income from other sources. He submits that the case of the assessee squarely covered by the decision of the honourable Karnataka High Court by two decisions which have already considered the decision of the honourable Supreme Court which is relied upon by the learned assessing officer. Therefore, the assessee should be allowed the deduction.

14. The learned Departmental Representative vehemently supported the decision of the learned lower authorities and submitted that the issue is squarely covered by the decision of the honourable Karnataka High Court in case of Totgars credit cooperative societies wherein the honourable High Court after considering the decision of the honourable Supreme Court has categorically held that interest income earned by the assessee from the cooperative banks is income from other sources and not business income and therefore the income earned by the assessee from interest from cooperative societies are not allowable as deduction under section 80 P of the act in any of the clauses. He further stated that the recent decision of the honourable Karnataka High Court has also followed the decision of the Totagar credit cooperative societies and therefore the issue is squarely covered in favour of the revenue.

15. We have heard the rival contentions and find that, that the Assessee is a Co-operative Society who has earned interest income of Rs. 1,06,99,450/- and after setting of the losses the deduction is claimed of Rs. 69,41,759/- u/s. 80P of the Act. The Ld. Assessing Officer has disallowed the above claim treating it as income from other sources. He is of the view that the interest income earned by the Assessee is income from other sources. The claim of the Assessee is that it is chargeable to tax as business income and deduction is allowable u/s. 80P(2)(a)(i) of the Act.
16. We find that the decision of the honourable Karnataka High Court in case of Tumkur Merchants Souharda Credit Cooperative Ltd. vs. Income-tax officer Word-V, Tumkur [2015] 55 taxmann.com 447 (Karnataka)/[2015] 230 Taxman 309 (Karnataka)[28-10-2014] has categorically discussed this issue and held that assessee is eligible for deduction under section 80 P (2) (a) (i) of the act as under:-

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:

- (a) in the case of co-operative society engaged in—
- (i) carrying on the business of banking or providing credit facilities to its members, or
- (ii) to xx xx xx
- (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. Hence, we pass the following order:

17. In the above decision it is held that if the interest income is attributable to the business of the assessee cooperative societies, deduction u/s 80 P (2) (a) (i) of The Act cannot be denied to the assessee. Further the decision of the honourable supreme court was also considered in paragraph no 9 of the decision.
18. In *Principal Commissioner of Income-tax, Hubli vs. Totagars Co-operative Sale Society* [2017] 78 taxmann.com 169 (Karnataka)/ [2017] 392 ITR 74 (Karnataka) [05-01-2017] it is held that:

7. However, the contention being taken by the learned counsel is untenable. For the issue that was before the ITAT, was a limited one, namely whether for the purpose of Section 80P(2)(d) of the Act, a Co-operative Bank should be considered as a Co-operative Society or not? For, if a Co-operative Bank is considered to be a Co-operative Society, then any interest earned by the Co-operative Society from a Co-operative Bank would necessarily be deductible under Section 80P(1) of the Act.

8. The issue whether a Co-operative Bank is considered to be a Co-operative Society is no longer *res integra*. For the said issue has been decided by the ITAT itself in different cases. Moreover the word "Co-operative Society" are the words of a large extent, and denotes a genus, whereas the word "Co-operative Bank" is a word of limited extent, which merely demarcates and identifies a particular species of the genus Co-operative Societies. Co-Operative Society can be of different nature, and can be involved in different activities; the Co-operative Society Bank is merely a variety of the Co-operative Societies. Thus the Co-operative Bank

which is a species of the genus would necessarily be covered by the word "Co-operative Society".

9. Furthermore, even according to Section 56(i)(ccv) of the Banking Regulations Act, 1949, defines a primary Co-Operative Society bank as the meaning of Co-Operative Society. Therefore, a Co-operative Society Bank would be included in the words 'Co-operative Society'.

10. Admittedly, the interest which the assessee respondent had earned was from a Co-operative Society Bank. Therefore, according to Sec. 80P(2)(d) of the I.T. Act, the said amount of interest earned from a Co-operative Society Bank would be deductible from the gross income of the Co-operative Society in order to assess its total income. Therefore, the Assessing Officer was not justified in denying the said deduction to the assessee respondent.

11. The learned counsel has relied on the case of *Totgars Co-operative Sale Society Ltd. v. ITO* [2010] 322 ITR 283/188 Taxman 282 (SC). However, the said case dealt with the interpretation, and the deduction, which would be applicable under Section 80P(2)(a)(i) of the I.T. Act. For, in the present case the interpretation that is required is of Section 80P(2)(d) of the I.T. Act and not Section 80P(2)(a)(i) of the I.T. Act. Therefore, the said judgment is inapplicable to the present case. Thus, neither of the two substantial questions of law canvassed by the learned counsel for the Revenue even arise in the present case.

12. For the reasons stated above, this Court does not find any merit in the present appeal. Hence, the appeal is dismissed.

19. Further in Principal Commissioner of Income-tax, Hubballi vs. Totagars Co-operative Sale Society [2017] 83 taxmann.com 140 (Karnataka)/ [2017] 395 ITR 611 (Karnataka)/ [2017] 297 CTR 158 (Karnataka) [16-06-2017] the honourable High court was also drawn attention to both the above decisions and in Para no 19 it held as under: -

"19. In our opinion, it would not make a difference, whether the interest income is earned from investments/deposits made in a Scheduled Bank or in

a Co-operative Bank. Therefore, the said decision of the Co-ordinate Bench is distinguishable and cannot be applied in the present appeals, in view of the binding precedent from the Hon'ble Supreme Court."

20. Thus, all the three decisions of the Hon'ble Karnataka High court considered the decision of Hon'ble supreme court in Totgars, Co-operative Sale Society Ltd. vs. Income-tax Officer, Karnataka [2010] 188 Taxman 282 (SC)/[2010] 322 ITR 283 (SC)/[2010] 229 CTR 209 (SC) [08-02-2010]. All the above three decisions are on the issue of deduction u/s 80 P of the Act in respect to deduction available u/s 80 P on interest income earned by the assessee from cooperative societies either u/s 80 P (2) (a) (i) or 80 P (2) (d) of The Act. Before us, the claim of the assessee is not u/s 80P (2) (d) of the Act but 80P (2) (a) (i) of the Act. In this case there are three decisions of the Hon'ble High court, which held differently, none of them is overruled or referred to larger bench, present an issue before us and that in such circumstances the correct thing is to follow that judgment which appears to state the law nearer to facts before us.
21. We find that the issue before us the facts of the case are more nearer to the decision of the Hon'ble Karnataka High court in case of Tumkur Merchants [supra] and Decision of Principal Commissioner of Income-tax, Hubli vs. Totagars Co-operative Sale Society [2017] 78 taxmann.com 169 (Karnataka)/[2017] 392 ITR 74 (Karnataka)[05-01-2017] as those decision deals with deduction u/s 80 P (2) (a) (i) of the Act.
22. In the case of the Decision of Honourable Supreme court of Mavilayi Service Co-operative Bank Ltd. vs. Commissioner of Income Tax, Calicut [2021] 123 taxmann.com 161 (SC)/[2021] 279 Taxman 75 (SC)/[2021] 431 ITR 1 (SC)[12-01-2021] has also held that Section

80P being a beneficial provision must be construed with the object of furthering the co-operative movement generally.

23. In view of the above facts, we find that the issue is squarely covered in favor of the Assessee by the above decision of Hon'ble Karnataka High court in case of Tumkur Merchants and Totgars Co-operative Sale Society as stated above. The decision of the Hon'ble Karnataka High Court in Totgars Co-operative Sale Society in 395 ITR 611 is against the Assessee. When the Hon'ble Karnataka High Court rendered the decision of 395 ITR 611, it distinguished the decision of the Hon'ble Karnataka High Court in case of Tumkur Merchants and Totgars Sales reported in 392 ITR. According to us, the facts of the case are more nearer to the decision of the Hon'ble Karnataka High Court in case of Tumkur Merchants and Totgars Sales 392 ITR wherein also the decision of the Hon'ble Supreme Court was considered. In view of the above facts, there are plethora of the decision of the coordinate benches at Bangalore and other benches wherein the co-operative societies are allowed deduction u/s. 80P(2)(d) as well as u/s. 80P(2)(a)(i). Therefore, respectfully following those decisions, the ground no. 4 of the Appeal is allowed, and the Ld. Assessing Officer is directed to grant the deduction of Rs. 69,41,759/- u/s. 80P(2)(a)(i). of the Act. All other grounds are infructuous.

24. In the result, Appeal filed by the Assessee is allowed.

Order pronounced in the open court on 29th December 2025.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 29th December 2025.

TNTS

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore