

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

BEFORE SHRI PAWAN SINGH, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No. 3205/Mum/2025
(Assessment Year: 2016-17)

I.T.A. No. 3206/Mum/2025
(Assessment Year: 2016-17)

Bombay Mercantile Co-operative Bank Ltd., Zain G. Rangoonwala Building, 78, Mohammedali Road, Mumbai - 400003 PAN: AAAAB2359J	Vs.	ITO (TDS)-Ward-19(1)(3), Room No. 415, Cumballa Hill, MTNL TE Building, Pedder Road, Cumballa Hill, Mumbai-400026.
Assessee -अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Jayant Bhatt, AR
Revenue by : Shri Leyaqt Ali Aafaqui, Sr. DR
Date of Hearing : 05.01.2026
Date of Pronouncement : 07.01.2026

ORDER

Per Arun Khodpia, AM:

The aforesaid two appeals are filed by the assessee against the order of Additional/ Joint Commissioner of Income Tax(A)-1, Ahmadabad [for short “Id. CIT(A)”] dated 16.10.2024 for the AYs 2015-16 & 2016-17, which in turn arises from the orders passed under section 201 passed by ITO(TDS), Ward-

(1)(1)(3) of the Income Tax Act, 1961 (the Act) dated 05.01.2023 & 29.12.2023 respectively.

2. The issue in aforesaid appeals pertains to TDS defaults on the part of the assessee. As per the Assessing Officer (AO), the assessee was failed in complying with the provisions of section 194A(1) r.w.s. 194A(3)(i) of the Act which provides for deduction of tax on interest (other than interest on securities) over a specified threshold i.e. Rs. 10,000/- for interest payment by Bank and Co-operative Society engaged in banking business (Co-operative Bank). As per details prepared by the AO, the total sum involved in default was for Rs. 24,09,930/- for which TDS was not deducted on payment of interest to four parties namely (1) Clean Mumbai Foundation (2) Hurt Foundation (3) Mulchand Lalji & Co. (4) The Colaba Central Co-op CONS.

3. The aforesaid issue is carried before the Id. CIT(A), who adjudicate it, by allowing assessee's contention, reading the provisions of section 194A(3) that in respect of interest paid by Co-operative Society to another Co-operative Society (including) Cooperative Banks as per section 194A(3)(iii)(v) would not be subjected to TDS, therefore there is no need to deduct TDS under section 194A of the Act. The aforesaid finding was given by the Id. CIT(A) for the AY 2017-18 (wrongly mentioned as AY 2016-17 by system in CIT(A)'s order), on the contrary, the entire TDS default for the AY 2016-17 (wrongly mentioned as AY 2015-16 by system in CIT(A)'s order) were confirmed.

To substantiate the aforesaid contention, the ld. AR of the assessee drew our attention to a decision of **ITAT, Mumbai** in assessee's own case for "**Mohammedali Branch**" vide **ITA No. 1306 & 1307/Mum/2025** for **AY 2016-17**, as per order dated 26.08.2025, wherein the Tribunal has held, as under:

"5. Heard both sides. The Bench decides that there is no need to deduct TDS on the interest paid by Cooperative Bank to cooperative societies in view of the following: -

a) Hon'ble Bombay High Court in the case of Saraswat Cooperative Bank has held that TDS provisions are not applicable where interest was paid to cooperative societies.

b) The Revenue, in appellant's own case, has accepted the contention of appellant for A.Ys. 2017-18 and 2018-19 that, TDS need not be deducted.

c) The Coordinate Bench of ITAT in the case of Punjab State Cooperative Bank Ltd. Vs. ITO (ITA No. 97/Chd/2016 has held that TDS need not be deducted on the interest payment to cooperative societies.

d) There is sufficient force in the submission of Ld.AR, where he relied on the amendment which was brought into Statute from 1.6.2015 relating to "Rationalisation of provisions relating to deduction of tax on interest and the related paragraph is produced below for clarity: -

"42.7 Further, the existing exemption provided under section 194A(3)(v) of the Income-tax Act from deduction of tax from interest paid by a co-operative society to another co-operative society shall continue to apply to the co-operative bank and, therefore, a co-operative bank shall not be required to deduct tax from the payment of interest on time deposit to a depositor, being a co-operative society."

6. In view of the above, there is no need to deduct tax by this Cooperative Bank while paying interest to a cooperative society."

4. In view of aforesaid decision, it was the submission by ld. AR that the issue is squarely covered by assessee's own case, therefore the observation of AO, which was further confirmed by the ld. CIT(A) in AY 2017-18 needs to be struck down. Accordingly, there was no default by the assessee, so the demands raised on assessee's may be directed to be deleted.

5. Regarding AY 2017-18, though the ld. CIT(A) had accepted the contention of assessee however in absence of relevant documents regarding the Colaba Central Co-op CONS to establish that the said organization is also a Co-operative Bank / Co-operative Society. To answer this issue, the ld. AR took us to assessee's assessment order for AY 2018-19, wherein at para-5, the ld. AO himself had accepted the status of the Colaba Central Co-op CONS being a being Co-operative Bank/Co-operative Society, thus no TDS on payment interest is required. The relevant observations of the AO for AY 2018-19 are extracted as under for the sake of completeness.

"5. The submission of the assessee has been carefully perused. The assessee has submitted the copy of the certificate of Registration vide No. BOM/CON/26 of 1966 issued by Divisional Joint Registrar, Co-operative Societies, Bombay and copy of PAN of the customer named "The Colaba Central Co-Op Consumers Wholesale & Retail Stores Ltd." On perusal of the submission of the assessee, the contention of the assessee is found to be correct."

6. To rebut the aforesaid contentions by the ld. Sr. DR representing the revenue submitted that the assessee was failed in submitting the crucial evidence before the ld. AO, as well as before the ld. CIT(A), therefore the

demands were raised. The ld. Sr. DR further referred to 1st proviso to section 201 according to which the assessee would be treated in default if fails to comply with the provisions of section 201 in deduction of tax or to pay such taxes as required under the Act.

7. Having given a thoughtful consideration to the aforesaid submissions by the parties, we find that the issue is squarely covered by assessee's own case for AY 2016-17 as per order of ITAT, Mumbai "B" Bench dated 26.08.2025 referred to supra, according to which there is no need to deduct TDS by the assessee Co-operative Bank on payments of interest to other Co-operative Societies or Co-operative Banks.

8. In view of such facts and circumstances, having substance in the submissions of the assessee supported with decisions (supra), the decision of Ld. CIT(A) contrary to the ratio of decision of ITAT Mumbai (supra) in assessee's own case cannot survive, we, thus, set-aside the findings of ld. CIT(A) for AY 2016-17, whereas modify the findings of ld. CIT(A) to accept the contentions of assessee, not required to deduct TDS on the Colaba Central Co-op CONS maintaining the status a Co-operative Society as accepted by the ld. AO in assessee's own case for AY 2018-19.

9. We further note that, since the assessee has conceded being unable to bring on record any substantial evidence regarding the status of Mulchand Lalji

& Co. to be a Co-operative Society to become eligible for non-deduction of TDS in terms of provisions of section 194A(3)(v) of the Act, consequently, we upheld the levy of demand to that extent raised by ld. AO and sustained by ld. CIT(A) for AY 2016-17, pertaining to default *qua* Mulchand Lalji & Co.

10. In backdrop of aforesaid facts and circumstances, the appeal of assessee for AY 2016-17 in **ITA No. 3205/Mum/2025** is **partly allowed**, whereas for AY 2017-18 in **ITA No. 3206/Mum/2025** is **stands allowed**.

Order pronounced in the open court on 07-01-2026.

Sd/-
(PAWAN SINGH)
Judicial Member

Mumbai, Dated : 07-01-2026.

**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai