

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI 'C' BENCH  
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA Nos. 6035 to 6042/M/2025 (AY: 2016-17) &  
ITA Nos. 6385 to 6442/M/2025 (AYs: 2017-18, 2018-19 & 2019-20)**

Citizen Credit Co-op Bank Ltd., CTS No. 236, Citizencredit Centre, Marve Road, Orlem Malad West, Mumbai – 400064	<b>vs.</b>	ITO (TDS), Ward - 1(1)(4), Mumbai
<b>PAN/GIR No: AAAAC0016F</b>		
(Appellant)		(Respondent)

<b>Appellant by</b>	Shri Nitesh Joshi a/w Shri Harsh Kothari, Ld. Advocates
<b>Respondent by</b>	Mr. Virabhadra S. Mahajan, Sr. DR
<b>Date of Hearing</b>	18/12/2025
<b>Date of Pronouncement</b>	19/01/2026

**ORDER**

**PER BENCH:**

These 66 appeals filed by the assessee emanate from the orders passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Addl./JCIT (A) – 10, Delhi, Office of the Commissioner of Income-tax (Appeals), dated 05.09.2025 [in short, 'CIT(A)'] for the assessment years (AYs) 2016-17, 2017-18, 2018-19 and 2019-20. Since the issues in these appeal are similar except variance in amounts, therefore, with consent of both parties, these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity. ITA No.6038/M/2025 for AY 2016-17 is taken as 'lead' case.

2. The grounds of appeal in ITA No.6038/M/2025 are as under:

**“ON THE FACTS AND THE CIRCUMSTANCES OF THE CASE, THE LD. ADDL.**

**JCIT(A)-10 DELHI ERRED IN: -**

1. confirming the TDS u/s. 201(1) of Rs.4,38,903 & interest u/s. 201(1A) of Rs.3,73,066, aggregating to Rs.8,11,969 u/s. 201(1)/(1A) of I.T. Act, 1961, on the ground that the Appellant had failed to deduct the tax at source u/s. 194A on the interest of Rs.44,07,683 paid by the Appellant to other Co-operative societies (not being members of the Appellant) and one trust.

2. not deciding on the second ground of appeal that in respect of interest payment of Rs.1,61,537 to a trust (included in Rs.44,07,683), the said trust had offered the said interest for taxation in their hands by including the same in the Income Tax Return filed and hence, there was no default in respect of TDS in terms of first proviso to S. 201(1). And hence, TDS u/s. 201(1) of Rs.14,288 & interest u/s 201(1A) of Rs.12,144 was not payable. Further the Appellant had also paid interest u/s 201(1A) of Rs.1,143 on the same.

3. not appreciating the fact that-

(a) the Appellant is a Co-operative society duly registered under the Multi State Co-operative Societies Act, 1984 and carried on the business of banking in terms of license granted by the Reserve Bank of India. Hence, even though the Appellant was a Co-operative bank, it was a Co-operative society first as defined u/s 2(19) of I.T. Act, 1961 but carrying on the business of banking.

(b) the Appellant was a Co-operative society as defined u/s. 2(19) of I.T. Act, 1961 and hence, the Appellant was exempt from deducting the tax at source on the interest paid by the Appellant to any other Co-operative society (not being members of the Appellant) u/s. 194A (3)(v)/ (vii)(b) of I. T. Act, 1961.

(c) interest on time deposits of Rs.42,46,146 was paid by the Appellant to other Co-operative societies (not being members of the Appellant) and hence, no tax was required to be deducted at source on the same u/s. 194A(3)(v) (vii)(b) of the I.T. Act, 1961.

(d) the exemption u/s. 194A(3)(v) was in 2 parts 1st part related to income credited by a Co-operative society (other than a Co-operative bank) to a member thereof and the 2nd part related to income credited by a Co-operative society to any other Co-operative society & the Appellant was covered by the 2nd part of the exemption.

(e) proviso to Sec 194A(3) making Co-operative society covered under Cl. (v) liable to deduct tax at source under certain circumstances was inserted w.e.f. 01.04.2020 & hence, did not apply for the A. Y. 2016-17.

*(f) if at all the Appellant being a Co-operative bank was not entitled for exemption u/s. 194A(3)(v) of 1. T. Act, 1961 as contended by the Respondent, there was no need for inserting the proviso u/s. 194A w.e.f. 01.04.2020.*

*(g) co-operative societies were not the members of the Appellant bank and hence, even after 01.06.2015, Appellant was not required to deduct the tax at source on the interest paid to other co-operative societies.*

*(h) S. 194A(3)(vii)(a)(b) was not applicable since it applied to income credited or paid in respect of deposits other than time deposits and in the present case, interest was paid on time deposits to any other co-operative society, which was covered by S. 194A(3)(v) of the Act.*

*4. mentioning in para 13 of the order dated 05.09.2025 that the Appellant had claimed to be primary agricultural society registered under the ministry of agriculture & referring to objects of the bank which was totally incorrect and irrelevant.*

*5. Relying on the ITAT order dated 15.07.2025 in the case of the Appellant for A. Y. 2016-17, which in the opinion of the passed without (e) proviso to Sec 194A(3) making Co-operative society covered under Cl. (v) liable to deduct tax at source under certain circumstances was inserted w.e.f. 01.04.2020 & hence, did not apply for the A. Y. 2016-17.*

*6. Observing in Para 20.1 of the order dated 05.09.2025 that the primary issue was about the liability of the Appellant for TDS u/s. 194A on interest payments made to its members totally overlooking the fact that the interest was paid to the Co-operative Housing Societies which were not the members of the Appellant bank.*

*And hence, the TDS Default of Rs.4,38,903/- (4,24,615 + 14,288) and Interest of Rs.3,73,066/- (3,60,922 + 12,144) u/s 201(1)/201(1A) of the I.T. Act, 1961, aggregating to Rs.8,11,969/- deserves to be deleted in toto.*

*Your Appellant craves leave, to add, alter, modify or delete all or any of the grounds of the appeal.”*

**ITA No.6038/M/2025 (AY 2016-17):**

3. The facts of the case in brief are that the assessee is a multi-state Co-operative society, registered under the Multi-State Co-operative Societies Act, 1984 holding license from Reserve Bank of India (RBI) for carrying on the business of banking. The assessee was originally registered as “The Bombay Catholic Urban

Co-operative Credit Society” in 1920 with the Registrar of Co-operative Societies. Its capital structure relies on contributions from its members. It was granted a full banking license by the RBI in 1989 and achieved ‘Scheduled Bank’ status in 1996, which allows it to operate like other commercial banks offering wide range of services. It is categorized as a multi-state urban Co-op. bank and is regulated by RBI, unlike commercial banks, which have different regulatory provisions. In a sense, though it offers similar type of banking services like a commercial bank, its fundamental structure and ownership model are those of a Co-operative bank. It had 24 branches in Mumbai and every branch of the bank holds a separate TAN registration. Therefore, multiple orders have been passed by the ITO (TDS) [in short, ‘AO’] u/s 201(1)/201(1A) of the Act in respect of each of its 24 Mumbai based branch for each financial year. Pursuant to the survey action and information gathered u/s 133(6) of the Act, a notice u/s 201 of the Act was issued to the assessee bank on 19.01.2023, calling for various details from different branches of the assessee bank. It was seen from the details furnished by the assessee bank that it had not deducted TDS u/s 194A of the Act on the interest paid to the registered Co-op. societies and other persons. In case of some individuals, TDS were deducted at lower rates. As per section 194A(1) r.w.s. 194A(3)(i) of the Act, tax is to be deducted on payment or credit of interest, other than interest on securities over a specified amount, i.e., Rs.10,000/-. However,

the assessee failed to deduct TDS despite specific provisions to do so. The AO issued show cause notice, which is at pages 2 to 5 of the order u/s 201(1) / 201(1A) of the Act, dated 24.03.2023. The reply of the assessee is in para 5 at pages 5 to 7 of the above order. The findings of the AO are at para 6 of his order wherein he has held that a Co-operative bank is an urban commercial bank and does not fall under the purview of a “Co-operative society” referred to in section 80P(2)(d) of the Act. The assessee had not deducted TDS u/s 194A of the Act on the interest payments to housing societies. The interest income of the housing societies from the Co-op. bank was not eligible for deduction u/s 80P(2)(d) of the Act. Hence, it was obligatory on part of the assessee to deduct tax on the interest income on the fixed or time deposits paid to the concerned Co-op. societies. The AO further referred to provisions of section 194A(1) r.w.s. 194A(3)(i) of the Act and held that these two provisions are specific provisions while exemption granted u/s 194A(3)(v) of the Act is a general provision. The special provisions override the general provision. Regarding the reliance placed by the appellant on the proviso below section 194A(3) to the effect that by Finance Act, 2020 w.e.f. 01.04.2020, interest payable by the assessee to its customer in excess of specified limit would be liable for deduction of tax at source, the AO observed that the said amendment would apply to such recipients of interests, which are in the business of banking

and not to Co-op. societies. The AO referred to the CBDT Circular No.18/2017 and stated that the appellant does not find a reference in the said Circular.

3.1 The AO also held that the explanation that some individuals and trusts have included the interest income in their ITRs and hence, the assessee was not liable to deduct TDS, is not acceptable because it was obligatory on part of the assessee to deduct TDS u/s 194A of the Act. The AO further observed that where Form 15H, 15G, Senior Citizen, NRE were given, the claim was allowable. He did not accept the contention of the assessee on its failure to deduct TDS in respect of Co-op. societies. He held that the appellant was under obligation to deduct TDS u/s 194A and due to failure to comply with the relevant provisions as discussed above, he treated the appellant as an 'assessee in default' and it was made liable to deposit tax u/s 201(1) along with interest u/s 201(1A) of the Act. The TDS default u/s 201(1) was Rs.4,44,035/- and the interest u/s 201(1A) of the Act was Rs.3,77,403/-. He directed the assessee to pay the aforesaid amounts totaling to Rs.8,21,465/-. He also intimated the Addl. CIT(TDS) to consider imposing penalty u/s 271C of the Act for failure to deduct/pay tax.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The appellant submitted that w.e.f. 01.06.2015, a Co-op. society is required to deduct tax on interest or other income credited or paid to its members. However, such payment made by a Co-op. society to other Co-op. society is exempt u/s

194A(3)(v) of the Act. The appellant also referred to clause 42 of the Explanatory Memorandum of Finance Bill, 2015, which stated that a Co-op. bank shall not be required to deduct tax on the payment of interest on time deposit to a Co-op. society. The exemption provided u/s 194(3)(v) with regard to deduction of tax at source from interest payment by a Co-op. society to another Co-op. society, which existed before the amendment, continuous to apply to the Co-op. bank even after the amendment. The appellant relied on the decision of the ITAT, Mumbai in case of *Abhyudaya Co-op. Bank Ltd. vs. ITO(TDS)*, in ITA Nos.2571 to 2590/Mum/2025, dated 26.06.2025, where appeal of the said bank was allowed treating it as a Co-op. society and not urban commercial bank. However, the CIT(A) did not follow the ratio of the above decision in view of the subsequent decision of ITAT, Mumbai in appellant's own case, i.e, *Citizen Credit Co-op. Bank Ltd. vs. ITO(TDS)*, in ITA Nos.2374 to 2381/Mum/2025 for AY 2016-17, dated 15.07.2025. The CIT(A) has reproduced the bye-laws of the appellant at para 14 (pages 12 to 14) of the appellate order and observed that no objects of the society are related to agricultural or farmer related activities. All the objects of the society are related to banking and commercial activities. The appellant bank primarily focuses on urban centric financial activities and was not for the beneficiary of agriculture economy. Consequently, the banking transactions and deposits by the institutions have no direct nexus with the primary objects of Co-op. society. The CIT(A) also

observed that the bye-laws and membership conditions revealed that the appellant Co-op. bank is engaged in banking services similar to those of the nationalized banks. He relied upon the decision of ITAT, Mumbai in its own case in ITA Nos.2374 to 2381/Mum/2025 (supra) and held that there was no merit in appellant's argument seeking exemption from TDS liabilities u/s 194A(3)(v) of the Act. Hence, the order of AO was upheld and the appeal of the appellant was dismissed.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned authorized representative (Id. AR) of the assessee filed paper books, enclosing various details and documents submitted before the lower authorities. He also filed a legal paper book, enclosing therein the relevant provisions of the Act, CBDT Circular and decisions of Hon'ble High Courts and Tribunals in favour of the assessee. The Id. AR submitted that pursuant to the banking license granted to the assessee bank dated 27.12.1989 by the RBI under the Banking Regulation Act, 1949, the appellant has been carrying on the business of banking. He referred to sections 194A(1), 194A(3)(v) and 194A(3)(viiia) of the Act and submitted that section 194A(1) of the Act places an obligation on a person who is responsible to pay interest, other than interest on securities, to deducts tax at source at the rates in force at the time of credit or payment of such income. Sub-section (3) of section 194A comprising clauses (i) to (xi) provides for exception

and specifies the circumstances in which such tax is not required to be deducted at source. Each of the clauses are mutually exclusive. If the case of the assessee falls within any one of the said clauses, obligation for TDS could not apply to its case. As per clause (i) of section 194A(3) of the Act, tax is not required to be deducted if the amount of interest does not exceed Rs.10,000/-. This clause is not applicable because the interest paid to each of the parties under consideration exceeded Rs.10,000/-.

5.1 Independent of above clause, clause (v) is relevant to decide the impugned issue. Before its amendment by the Finance Act, 2015, w.e.f. 01.06.2015, clause (v) exempted a Co-op. society from deduction of tax at source in respect of interest paid to its members. After amendment, the benefit was withdrawn where a Co-operative bank paid such interest to its members. The Id. AR submitted that the Co-op. societies (i.e., Co-op. housing societies) to whom interest was paid were not members of the assessee.

5.2 The Id. AR submitted that the appellant is covered by the second part of clause (v) of section 194A(3) of the Act, which exempts TDS in respect of credit or payment of interest by a Co-op. society to another Co-op. society. Both the appellant (Payer) as well as recipient (Housing Co-op. societies) are Co-op. societies. A Co-op. society carrying on banking business would not lose its status of being a Co-op. society. Since the appellant's case fell within the second part of

section 194A(3)(v) of the Act, it was under no obligation to deduct tax at source on credit or payment of such interest to the Co-op. housing societies *de hors* the quantum of such interest. The Id. AR relied on paragraph 42.7 of Circular No.19/2015, dated 27.11.2015, explaining the provisions of the Finance Act, 2015, that the existing exemption u/s 194A(3)(v) of the Act from TDS on interest paid by Co-op. society to another Co-op. society shall continue to apply to the Co-op. bank and therefore, a Co-op. bank shall not be required to deduct tax from payment of interest on time deposit to a Co-op. society. The Id. AR submitted this position has been accepted by various Benches of the Tribunal while dealing with similar issue post 01.06.2015, such as (i) HP State Co-op. Bank Ltd. vs. ITO(TDS), 172 taxmann.com 470 (Chd.), (ii) Abhyudaya Co-op. Bank Ltd. (supra), (iii) Bombay Merchantile Co-op. Bank Ltd. vs. ITO, ITA Nos.1306 to 1307/Mum/2025, dated 26.08.2025, (iv) Darjeeling District Central Co-op. Bank Ltd. vs. ACIT(OSD)(TDS), ITA Nos.766, 767 & 768/Kol/2023, dated 26.06.2024 (v) Kadakkavoor Services Co-op. Bank Ltd. vs. ACIT, WP(C) No.11176 of 2019, dated 18.10.2019 (Kerala) and (vi) Saraswat Co-op. Bank Ltd. vs. ITO(TDS), TA Nos.3 to 9 & 11 of 2015, dated 07.03.2017 (Bom.).

5.3 The Id. AR submitted that the Tribunal in appellant's own case in ITA Nos. 2374 to 2381/Mum/2025 (supra) has proceeded as if assessee is crediting/paying interest to its members and therefore, after amendment w.e.f. 01.06.2015, it

would be liable to deduct tax at source based on the first part of section 194A(3)(v) of the Act. He submitted that the Tribunal overlooked the fact that the recipient of interest in the present case are Co-op. societies and, therefore, fall within the second part of section 194A(3)(v) of the Act. He submitted that the recipients of interest from the assessee bank are not its members. This is supported by the Bank's registered bye-laws where in clause 4B(ii) r.w. clause 2(ix), it is stated that Co-op. societies cannot be made members of the assessee bank. He submitted that clauses (i) and (viia) of section 194A(3) of the Act do not create a charge; in fact, they provide an exemption from the obligation to deduct tax at source. Further, the clauses in sub-section (3) of section 194A of the Act are mutually exclusive and independent of each other. If assessee falls within one of such clauses, the obligation to deduct tax stands taken away. It was submitted that the decision of Karnataka High Court in case of Yeshwantpur Credit Co-op. Society, in ITA No.237 of 2012 was concerned with deduction u/s 80P of the Act and difference between Co-op. bank and Co-op. society was in that context. The Id. AR submitted that the Tribunal in its own case (supra) has proceeded on erroneous basis that appellant paid interest to its members instead of appreciating that the payments were made to Co-op. housing societies, which would fall within the second part of section 194A(3)(v) of the Act.

5.4 The Id. AR also submitted that the requirement to deduct TDS has to be decided as per clause (v) of section 194A(3) of the Act and clauses (i) and (viia) have no applicability in the present case. He further submitted that decision of ITAT, Goa in case of Saraswat Co-op. Bank is no longer a good law in view of decision of the Hon'ble Bombay High Court in case of Saraswat Co-op. Bank Ltd. (supra).

6. Regarding ground No.2, the Id. AR submitted that they are peculiar only in respect of appeals relatable to the Colaba Bench in ITA No. 6038/M/2025 and Amboli Bench in ITA No.6422/M/2025. He requested that a direction may be given to the AO that if the appellant is able to show fulfilment of conditions in proviso below section 201(1) of the Act, then, the appellant cannot be treated as an "assessee in default" to such extent.

7. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue relied on the orders of lower authorities and submitted that after amendment w.e.f. 01.06.2015, the Co-op. banks were mandated to deduct tax at source on interest paid or credited to their members, if the amount of such payment exceeds specified threshold of Rs.10,000/-. He submitted that the Co-op. banks tried to avail this exemption by making the depositors their members of different categories. This benefit has been taken away by amendment w.e.f. 01.06.2015, so as to exclude the payment exceeding

Rs.10,000/- from exemption of TDS, if it was made to members by Co-op. bank. The Id. Sr. DR also submitted that the word 'Member' has not been removed after amendment. Hence, even after amendment all Co-op. banks have to deduct tax from members as well as non-members. Only a Co-op. society, which is a member is exempted from deducting tax, if payer Co-op. society is a Co-op. bank. He submitted that section 194A(3)(v) of the Act is only for members and therefore, is applicable to member Co-op. society. The TDS default is against the Co-op. societies, which are not the members of assessee bank. He submitted that as per the provisions of section 194A(1) r.w. provisions of section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act, a Co-op. bank is required to deduct tax from interest payment on time deposits, if the amount of such payment exceeds specified limit of Rs.10,000/- in F.Y. 2015-16 (A.Y. 2016-17). However, provisions of section 194A(3)(v) provides general exemption from TDS in respect of payment of interest by Co-op. society to its members, as a result of which, Co-op. bank tried to avail the exemption by making the depositors as members of different categories. This caused disputes as to whether the Co-op. banks for which specific provisions of TDS exist in the form of section 194A(1), 194A(3)(i)(v) and 194A(3)(vii)(b) of the Act can take benefit of general exemption provided to all Co-op. societies from deduction of tax on payment of interest to members. The matter was carried to appellate forums where a view was taken that section 194(3)(vii)(b) of the Act

makes no distinction between members and non-members for the purpose of TDS. Hence, Co-op. banks are required to deduct tax on payment of interest and cannot avoid by taking shelter under the general exemption provided u/s 194(3)(v) of the Act. The Id. Sr. DR submitted that the specific provisions of section 194A(3)(i)(b) and 194A(3)(vii)(b) override the general exemption provided to Co-op. societies for non-deduction of tax u/s 194A(3)(v) of the Act. He submitted that after amendment from 01.06.2015, all Co-op. banks have to deduct tax from members as well as non-members. Only a Co-op. society which is a member is exempted from deducting tax if the payer Co-op. society is a Co-op. bank. He submitted that provisions of section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act do not say anything about membership of recipients. In view of the above, the Id. Sr. DR submitted that the provisions of section 194A of the Act are applicable in the instant case. He submitted that the assessee being a Co-op. bank and the interest payment being made to Co-op. societies which are not members of the bank, provisions of section 194A of the Act are applicable and the assessee is not exempted from the said provisions of u/s. 194A(3)(i)(b), 194A(vii)(b) and also not u/s. 194A(3)(v) of the Act. He also submitted, without prejudice to the above, as regards the CBDT circular No. 19/2015 dated 27.11.2015, that even if it is assumed that the payment of interest by a Co-op. bank to a Co-op. society, which is a non-member is eligible for exemption u/s. 194A(v), the said Circular in contrary to the

provisions u/s. 194A(3)(i)(b) and 194A(viia)(b) of the Act. Hence, the same does not prevail over the statute He has relied on the decisions in cases of Citizen Co-op. Bank Ltd. (supra), Saraswat Co-op. Bank Ltd. vs. ITO (TDS), (2015) 54 taxmann.com 297 (Panaji – Trib.), and Noida Commercial Co-op. Bank Ltd. vs. ITO(TDS), (2015) 64 taxmann.com 158 (Del – Trib.).

8. We have heard both the parties and perused the materials available on record. We have also deliberated on the decisions relied upon by both parties. The issue for consideration is whether the appellant, which is a multi-state cooperative bank, was under an obligation to deduct tax at source in respect of the interest paid or credited on fixed deposit placed by the Co-op. societies as per section 194A(1) r.w. section 194A(3) of the Act. These provisions provide for deduction of tax on interest other than “interest on securities” over a specified limit, i.e. Rs.10,000/- for interest payment (A.Y. 2016-17) by any person including bank and Co-operative society engaged in banking business (Co-operative bank). According to the AO and as confirmed by CIT(A), section 194A(3)(v) of the Act, which was amended by the Finance Act, 2015 with effect from 01.06.2015 mandated a Co-operative bank to deduct tax at source on interest paid or credited to registered Co-operative housing societies which are not in the business of banking. According to the AO, the provisions contained in section 194A(3)(v) provide a general exemption on making tax deduction from payment of interest

by all the Co-operative societies, and it was not applicable to the assessee since it is a Co-operative bank.

8.1 It is imperative to take note of certain definitions – (A) ‘Co-operative bank’ means a Co-operative bank as defined under the Banking Regulations Act, 1949. As per Section 5(1)(cc) of the Banking Regulations Act, 1949, “Co-operative bank” is defined as a state Co-operative bank, a central cooperative bank, or a primary Co-operative bank which are Co-operative societies undertaking banking business, registered under Co-operative laws and subject to RBI regulation; (B) ‘Co-operative society’ u/s.2(19) of the Income-tax Act means a cooperative society registered under the Co-operative Societies Act, 1912 or under any other law for the time in force, in any state, for the registration of Co-operative societies.

8.2 In the appellant’s case, it is evident that assessee is a Co-operative society registered under the Co-operative Societies Act of the State. In order to carry on the business of the banking, it was granted a banking license from RBI on 27.12.1989 and, thus, is referred to as a Co-operative bank. It received Scheduled Bank status on 26.10.1996. Co-operative banks in India function under a dual regulatory frame work, dividing banking and managerial oversight between the RBI and the Registrar of Co-operative Society (RCS). RBI regulates banking functions under the Banking Regulation Act, 1949 and Banking Laws (Application to Co-operative Societies) Act, 1965. This includes capital adequacy, risk

management, lending norms and financial supervision. On the other hand, RCS overseas managerial aspects under the State/Central government including incorporation, registration, governance, audit, board suppression and liquidation of Co-operative banks. It is, therefore, clear that “Co-operative society” and “Co-operative bank” are not identical. There are several distinguishing features between the two. The RBI does not have any control over the “co-operative society” whereas “co-operative bank” are supervised and controlled by RBI in respect of all banking specific operations. The RBI has also the power to revoke banking license of co-operative banks. This duality has been recognized in the statute and distinct and specific provisions have been made for them. It is also a fact on record that assessee bank has made payment of interest to its customers, who are Co-operative housing societies, without any TDS.

8.3 The provisions contained in section 194A, to the extent relevant for the instant appeal, read as under:

***“[Interest other than “Interest on securities”.***

***194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:***

*Provided that .....*

*Explanation. - .....*

*(2) [Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.]*

(3) The provisions of sub-section (1) shall not apply-

(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed-

(a) ten thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) ten thousand rupees, where the payer is a Co-operative society engaged in carrying on the business of banking;

(c) ten thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified 84 by it in this behalf; and

(d) five thousand rupees in any other case:]

[**Provided** that in respect of the income credited or paid in respect of-

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a Co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36.

the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the Co-operative society or the public company, as the case may be

**Provided further** that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the Co-operative society or the public company, as the case may be, where such banking company or the Co-operative society or the public company has adopted core banking solutions:]

.....

(v) to such income credited or [paid by a Co-operative society (other than a cooperative bank) to a member thereof or to such income credited or paid by a Co-operative society] to any other Co-operative society.]

*Explanation.- For the purposes of this clause, "Co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);]*

.....

*(viiia) to such income credited or paid in respect of, -*

*(a) deposits with a primary agricultural credit society or a primary credit society or a Co-operative land mortgage bank or a Co-operative land development bank;*

*(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a Co-operative society, other than a Co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;]*

*[Emphasis supplied]*

8.4 The Finance Act, 2015 made an amendment in clause (v) of subsection (3) to Section 194A with effect from 01.06.2015. Prior to the said amendment, relevant portion of Section 194A read as under:

*"(v) to such income credited or paid by a Co-operative society to a member thereof or to any other Co-op. society".*

8.5 The Id. AR of the assessee submitted that in the amendment brought in by the Finance Act, 2015, the phrase 'other than a Co-operative bank' is inserted in the first part/limb of the amended clause (v) of section 194A(3) of the Act. However, the same does not appear in the second limb of clause (v), meaning thereby that the condition that it should not be a Co-operative bank is not applicable in respect of interest paid to a Co-operative society. It is not disputed that assessee is a Co-operative society duly registered under Co-operative Societies Act, holding banking license issued by RBI for the conduct of its banking business. It has paid interest to other Co-operative societies and no deduction of

tax at source is required to be done in view of the provisions contained in clause (v) of Section 194A(3) of the Act.

8.6 The Id. AR also referred to clause 42 of the Explanatory Memorandum to Finance Bill, 2015 by which the amendment was introduced w.e.f. 01.06.2015.

While explaining the amendment, in clause 42.7, it is stated that

*“Further, the existing exemption provided u/s.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 the depositor being a Co-operative society.”*

8.7 The Id. AR submitted that from the reading of the Memorandum of Finance Bill, 2015, it is clear that exemption provided u/s 194A(3)(v) with regard to deduction of tax at source from interest payment by a Co-operative society to another cooperative society existed before the amendment and continues to apply to the Co-operative bank even after the amendment. In the said Memorandum, it is clarified that such a waiver to a Co-operative bank is available when the depositor is a Co-operative society and interest is paid to such Co-operative society. In view of this, even though it is categorically stated in the explanation given in the Explanatory Memorandum in clause 42 of the Finance Bill, 2015 that a Co-operative society shall not be required to deduct tax for the payment of interest on time deposit to a Co-operative society, the AO has

incorrectly treated the assessee “as assessee in default” and imposed a tax liability towards non-deduction of tax at source along with interest thereon.

8.8 The Id. AR relied upon the decision of Co-ordinate Bench of ITAT Chandigarh in case of HP State Co-operative Bank Ltd. (supra), wherein similar issue had come up and it was held that assessee was not required to deduct tax at source in view of Section 194A(3)(v) of the Act. He also placed reliance in cases of Kadakkavoor Services Co-op. Bank Ltd. vs. ACIT, WP(C) No.11176 of 2019 (Kerala), Kaipuzha Services Co-op. Bank Ltd. vs. CIT(TDS), WP(C) No.10712 of 20196 (Kerala), Abhyudaya Co-op. Bank Ltd. (supra) and Darjeeling District Central Co-op Bank Ltd. (Supra).

8.9 On the reliance placed by the CIT(A) on the decision of the Co-ordinate Bench of ITAT in appellant’s own case in ITA Nos.2374 to 2381/Mum/2025 (supra), the Id. AR submitted that in the said case the issue involved was on the interest paid by the appellant to its members and not on the interest paid to Co-operative housing societies registered under the Registrar of Co-op. Societies, Mumbai and they are not in the business of banking as in the present case. Accordingly, the facts of the said case are not applicable to the present case.

9. In view of the above, the Id. AR submitted that the assessee is not required to deduct tax at source from the interest payment made by it on time deposits to other Co-operative societies. Accordingly, the assessee cannot be treated as

assessee in default u/s 201 of the Act. The demand raised by the AO in respect of non-deduction and short deduction of tax at source along with interest thereon is required to be deleted.

10. On the other hand, the Id. Sr. DR submitted that as per the provisions of section 194A(1) r.w. provisions of section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act, a Co-op. bank is required to deduct tax on the interest payments on time deposit, if the amount of such payment exceeds Rs.10,000/- (A.Y. 2016-17). He submitted that the exemption provided u/s 194A(3)(v) of the Act is a general exemption from TDS in respect of payment of interest in certain cases. He submitted that when there are specific provisions of TDS u/s 194A(3)(i)(b) and 194(3)(vii)(b) of the Act, the general exemption u/s 194A(3)(v) cannot prevail over the specific provisions. Since, there is no amendment to section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act, which are specific provisions applicable to the assessee bank, the assessee was clearly in default for not deducting tax from payment of interest to the Co-op. housing societies. The Id. Sr. DR has relied on the decision of the Co-ordinate Bench in assessee's own case for AY 2016-17 in ITA Nos.2374 to 2381/Mum/2025 (supra) and Noida Commercial Cooperative Bank Ltd (supra).

11. We find that the revenue has relied on provisions of section 194A(1), 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act, whereas the appellant has relied on

the second limb of section 194A(3)(v) of the Act. At the cost of repetition, the same may be reproduced below for ready reference and clarity:

***“[Interest other than “Interest on securities”.***

***194A. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:***

***(3) The provisions of sub-section (1) shall not apply-***

***(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed-***

***(a) .....***

***(b) ten thousand rupees, where the payer is a Co-operative society engaged in carrying on the business of banking;***

***.....***

***(v) to such income credited or [paid by a Co-operative society (other than a cooperative bank) to a member thereof or to such income credited or paid by a Co-operative society] to any other Co-operative society.]***

***.....***

***(viiia) to such income credited or paid in respect of, -***

***(a) .....***

***(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a Co-operative society, other than a Co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;]”***

12. It is clear from the reading of the relevant provisions of the Act reproduced above that provisions of sections 194A(1), 194A(3)(i)(b), 194A(3)(v) and 194A(3)(viiia)(b) of the Act are relevant to decide the issue at hand. There is no

dispute that the appellant is a multi-state credit Co-op. society, which is engaged in the business of banking after obtaining license from RBI. It is a Scheduled Bank carrying on the business of banking at various places in Mumbai and other cities. During the year under consideration (A.Y. 2016-17), the appellant bank had paid interest to various Co-op. housing societies and other persons, above the threshold limit of Rs.10,000/-. There is no dispute that the assessee did not deduct TDS on such interest payment. The ITO(TDS) and the CIT(A) treated the assessee bank as an “assessee in default” for not deducting TDS u/s 201 of the Act. It is the contention of the Id. Sr. DR that there are specific provisions, which require the assessee to deduct TDS. He has referred to the provisions of section 194A(3)(1)(b) and 194A(3)(vii)(b) of the Act and submitted that these are specific provisions directly dealing with the fact situation of the assessee, which is a Co-operative bank. On the other hand, the provisions of section 194A(3)(v) of the Act provide general exemption to concerned payers from deducting tax at source and has no relevance in deciding case of the assessee.

13. On the other hand, the Id. AR of the assessee submitted that the assessee is covered by the second limb of section 194A(3)(v), which remained untouched by the amendment by the Finance Act, 2015 w.e.f. 01.06.2015. The assessee is a Co-op. society carrying on the business of banking which has paid interest to other

Co-op. housing societies. Therefore, it was not required to deduct Tax u/s 194A of the Act.

13.1 In view of the rival contention by the parties, we have again perused provisions of section 194A(1), 194A(3)(i)(b), 194A(3)(v) and 194A(3)(vii)(b) of the Act. Section 194A(1) requires any person, other than individual or HUF, to deduct tax at the time of credit or payment of interest to the account of the payee. Sub-section (3) of 194A provides exemption from deduction in certain cases. Provisions of section 194A(3)(i)(b) of the Act makes it clear that provisions of sub-section (1) of section 194A(1) shall not apply to such income if the amount does not exceed **“ten thousand rupees where the payer is a Co-op. society engaged in carrying on the business of banking”**. This clause is directly applicable in case of the appellant because it is a Co-operative society engaged in carrying on the business of banking. Hence, the appellant bank was exempted from TDS liability only upto payment of interest of Rs.10,000/-. Beyond the above amount, it was obliged to deduct tax on credit or payment of interest to the respective payees. In the instant appeal, all payments were more than Rs.10,000/-. Hence, the appellant was required to deduct tax on such interest payments. Further, provisions of section 194A(3)(vii)(b) also excludes payment of interest on deposits by a Co-op. society or bank, engaged in carrying on the business of banking from waiver of TDS. Since the assessee is a Co-op. society engaged in the

business of banking, the exemption from TDS is not available to it while crediting or making payment of interest to other Co-op. societies. On the other hand, provisions of 194A(3)(v) provides exemption from TDS u/s 194A(1) to Co-op. societies other than a Co-op. bank to a member thereof or to such income credited or paid by a Co-op. society to any other Co-op. society. The second limb of 194A(3)(v) exempts a “Co-op. society” from TDS on payment made to another “Co-op. society”. The second limb does not deal with a “Co-op. society engaged in carrying on the business of banking” and, therefore, it is a general provision exempting Co-op. society from TDS on interest to other Co-op. societies. On the other hand, the provisions of section 194A(3)(i)(b) and 194A(3)(viia)(b) of the Act are specific provisions dealing with Co-op. society engaged in carrying on business of banking. Therefore, we agree with the contention of the Id. Sr. DR that the specific provisions of section 194A(3)(i)(b) and 194A(3)(viia)(b) related to Co-op. society engaged in carrying on the business of banking will prevail over the general provisions of section 194A(3)(v) of the Act dealing with credit or payment of interest by Co-operative society to other Co-operative society.

14. It is well established principle of statutory interpretation that a specific provision will prevail over a general provision when there is conflict between the two. This is embodied in the maxim “*generalia specialibus non derogant*”, i.e., general things do not derogate from special things. When both general and

special provisions cover the same issue, the special provision is considered an exception to the general one and applies to that specific situation. It is assumed that the legislature by enacting a specific provision intended the specific rule to govern the particular situation, excluding the operation of general provision. In taxation matters, the Courts have consistently applied this principle in various fact situations. Reference may be made to the decision of Hon'ble Supreme Court in case of Commercial Tax Officer Vs. Binani Cements Ltd & Another, (2014) 8 SCC 319, where the judgement established and reinforced the legal principle that a specific provision relating to a specific and defined subject would prevail over a general provision relating to a broad subject. It also held that equity is out of place in tax law; a particular income is eligible to tax under the taxing statute or not. It also reinforced the principle that executive orders cannot override statutory regulations unless explicitly permitted by law.

15. There is no reason as to why the ratio will not be applicable to the facts of the instant appeal. In the present case, the provisions relating to a "Co-operative society engaged in carrying on the business of banking" will be applicable; rather than the provisions in respect of "a Co-operative society". Therefore, we do not find any reason to deviate from the finding of the lower authorities and observation of the Co-ordinate Bench in appellant's own case (supra) where, after detailed discussion on the facts, provisions of section 194A of the Act,

amendment to section 194A(3) of the Act w.e.f 01.06.2015 and precedents on the issue including decision relied upon by Id. AR in case of H. P. Co-op Bank Ltd (supra), it was held that the assessee bank was covered by provisions of sub-clause (b) of clause (i) of section 194A(3) as well as provisions of sub-clause(b) of clause (viiia) of the Act. For ready reference, the relevant para may be reproduced below:

*“7.3 Since the assessee bank is covered by the provisions of sub-clause(b) of clause(i) of Section 194A(3) as well as the provisions of clause (viiia) of the Act which are specific in nature, the assessee cannot claim that it is covered under section 194(3)(v) which are general in nature. Rather, it is a Co-operative society engaged in the business of banking, it is covered under these aforesaid specific clauses. There are a number of judicial pronouncements wherein it has been held that a specific provision overrides a general provision. For this purpose reliance was placed by the AO on Kirloskar Pneumatic Company Ltd Vs. Commissioner of Surtax (1994) 210 ITR 485 (Bom) and CIT vs. Mahanagar Telephone Nigam Ltd (2002) 254 ITR 627(Del). The Hon'ble Supreme Court in the case of South Indian Corporation (P) Ltd Vs. Secretary, Board of Revenue AIR 1964 SC 207 has held that the special provision should be given to the extent of its scope leaving the general provision to control cases where the special provision does not apply.*

*7.4 We find that the Co-operative is also interpreted by the Hon'ble Karnataka High Court, wherein in the case of CIT vs. Yeshwanthpur Credit Co-operative Society Limited in ITA No. 237/2012, wherein the Court has interpreted the Co-operative Bank by inter alia observing that banks give credit, do discounting bills of exchange, cheque, demand issue cheques, drafts, pay orders, demand drafts, gift cheques, Pay orders, bank cheques, lockers, bank guarantees etc. all of which Cooperative Society cannot. Banks are bound to follow the rules and regulations as per RBI. Moreover, we find that in the said judgment the hon'ble Court has held as under: —*

*If a Co-operative Bank is exclusively carrying banking business, then the income derived from the said business cannot be deducted in computing the total income of the assessee. The said income is liable for tax. A Co-operative bank as defined under the Banking Regulation Act includes the primary agricultural credit society or a primary co-operative agricultural rural development bank. The Legislature did not want to deny the said benefit to a primary agricultural credit society or a primary cooperative*

agricultural and rural development bank. They did not want to extend the said benefit to a co-operative bank which is exclusively carrying on banking business i.e., the purport of the amendment. If the assessee is not a Co-operative bank carrying on exclusively banking business and if it does not possess a license from the Reserve Bank of India to carry on business, then it is not a Co-operative bank. It is a Co-operative society which also carries on the business of lending money to its members which is covered under Section 80P(2)(a)(i) i.e., carrying on the business of banking for providing credit facilities to its members. The object of the aforesaid amendment is not to exclude the benefit extended under Section 80P(i) to the society. Looking to the facts and circumstances of the case the Hon'ble High Court has interpreted the difference between Co-operative Bank and Co-operative Society.

7.5 The Co-operative Bank and Co-operative Society are also interpreted in the case of *Bhagani Nivedita Sahakari Bank Ltd. vs. ACIT (2003) 87 ITD 567* where in it is held that Co-operative Society mentioned in Section 194A(3)(v) should be interpreted as Co-operative Society other than Co-operative Bank. We find that hon'ble ITAT Pune Bench has interpreted the word Co-operative and Co-operative Society and further the hon'ble Kerala High Court in the case of *Moolamattom Electricity Board Employees Co-operative Bank Ltd.* has made a clear distinction between primary credit society and a Co-operative society engaged in banking business. We find that the assessee bank is covered by the provisions of sub-clause (b) of clause (i) of Sec.194A(3) as well as the provisions of clause (vii) of Section 194A(3) which are specific in nature and not section 194A(3)(v) which is general in nature. Respectfully following the ratio of the above case laws including that of the Supreme Court, we conclude that the assessee's case is covered by the specific provision in clause (i) & (vii), rather than the general provisions of clause (v) of Sec 194A(3) as rightly held by the AO.

7.6 We may mention here that the cited decision of coordinate bench of ITAT, Chandigarh in **The H.P.State Co-Operative Bank in ITAT No.125/127/chd/202 dated 27.2.2025** is distinguishable on facts of the case since in the instant case the recipients are housing cooperative societies which are neither cooperative banks nor cooperative societies engaged in banking business and are therefore liable to make TDS on interest paid to such cooperative societies.

7.7 To conclude, we are of the considered opinion that the issue is no longer res integra in view of the CBDT Circular (supra) holding that such Co-operative Banks were not required to deduct tax at source an interest paid on one time deposits by its members, paid or credited on or before 01.06.2015. In view of these facts and looking to the intention of the legislature while making amendment to clause of section 194A, it is very much clear that the said amendment is prospective in nature and, therefore, is applicable w.e.f. 01.06.2015 and onwards. There is no

*dispute that assessee is a co-operative society engaged in banking business and the exemption for deducting tax at source for payment of interest is only up to Rs.10,000/-. So the assessee was liable to deduct TDS for payment of interest above this threshold. The above amendment is clearly applicable to the years under appeal and, therefore, the Id.CIT(A) has rightly upheld the action of the AO. Accordingly, we decline to interfere with the orders of the Id.CIT(A), which are hereby upheld. Therefore, all the grounds of appeal of the assessee are **dismissed.**"*

16. We find no reason to differ from the findings of the Co-ordinate Bench in appellant's own case (supra) for the same year. We hold that the appellant is covered by provisions of section 194A(1), 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act and not under provisions of section 194A(3)(v) of the Act. The decisions relied upon by the Id. AR are not applicable because in those cases the impugned issue had not been examined in the light of the specific provisions of section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act. The said decisions were based on interpretation of the provisions of clause (v) of section 194A(3) of the Act and Circular No. 19/2015 (supra). In case of Abhyudaya Co-op Bank Ltd. (supra), the Tribunal decided in favour of the appellant by observing that waiver provided u/s. 194A(3)(v) of the Act from interest payment by a Co-op society to another Co-op society existed before amendment and continues to apply to co-operative bank even after the amendment. It relied on the Explanatory Memorandum (supra). It also relied on the decision in case of H. P. state co-operative Bank Ltd. (supra). In case of Kadakkaboor Services Co-op Bank Ltd. (supra), the interest payment was by the District Co-operative Bank to the Primary Agricultural Credit Society.

Hence, the facts are not similar. In H. P. State Co-operative Bank Ltd. (supra), the Tribunal held that by virtue of provisions of section 194A(3)(v), a Co-op bank is not required to deduct tax at source on interest paid to another Co-op society. We have already discussed the above issue and held that provisions of sections 194A(3)(i)(b) and 194A(3)(viiia) are relevant to decide the issue and not the provisions of section 194A(3)(v). This case was also considered by the Tribunal in appellant's own case cited supra.

16.1 Therefore, we are of the considered view that the decisions relied upon by the Id. AR are distinguishable either on facts or based on general provisions of exemption rather than the specific provisions of section 194A(3) of the Act fastening TDS liability on the assessee. We have already held that the specific provisions applicable to the appellant would prevail over the general provisions contained in section 194A(3)(v) of the Act. No amendment has been made in the specific provisions contained in section 194A(3)(i)(b) and 194A(3)(viiia)(b) of the Act dealing with "Co-operative society engaged in carrying on the business of banking". Hence, the decisions relied upon would not come to the rescue of the appellant.

16.2 At this stage, it may be mentioned that the Circular, Instruction, Order or Direction issued by the CBDT cannot override or detract from the provisions of the Act, as held by the Hon'ble Supreme Court in case of Kerala Finance

Corporation vs. CIT, 210 ITR 129 (SC). The Hon'ble SC held that *"Such an order, instruction on direction cannot override the provisions of the Act; that would be destructive of all known principles of law as the same would really amount to giving power to a delegated authority to even amend the provision of law enacted by the Parliament. Such a contention cannot seriously be even raised."* In view of the above factual and legal positions, we do not find any infirmity in the order of CIT(A), which we confirm. The grounds are accordingly dismissed.

17. Ground No.2 pertains to Colaba Branch (ITA No.6038/Mum/2025) and Amboli Branch (ITA No.6422/Mum/2025) where it is submitted that the payees have shown the amounts received from the assessee in their returns of income. The Id. AR submitted that the above cases are covered by the proviso below section 201(1) of the Act. As per the proviso, the prayer shall not be deemed to be an assessee in default in respect of the impugned tax if such payee has furnished his return of income u/s 139 of the Act and has taken into account the impugned sum for computing the income in the return of income. After considering the submission of the appellant, we deemed it proper to restore the matter to the file of AO for verification as to whether the appellant is able to show fulfilment of the conditions mentioned in proviso below section 201(1) of the Act. If the conditions are satisfied, the AO shall allow necessary relief. For statistical purposes, the ground is allowed.

18. In the result, the appeal of the assessee is partly allowed for statistical purposes.

**ITA Nos.6035 to 6037, 6039 to 6042 & 6385 to 6442/Mum/2025 (AYs 2016-17, 2017-18, 2018-19 & 2019-20):**

19. The facts and grounds in these appeals are similar to those in ITA No. 6038/Mum/2025 (supra). Following the reasons given therein, these appeals of the assessee are also dismissed, whereas ITA No.6422/Mum/2025 is partly allowed for statistical purposes.

Order is pronounced on 19/01/2026 in the open court.

Sd/-  
**(N. K. CHOUDHRY)**  
**JUDICIAL MEMBER**

Sd/-  
**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Mumbai / Date: 19/01/2026

Anandi.Nambi (Steno)

**Copy of the Order forwarded to:**

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

By Order

Assistant Registrar  
ITAT, Mumbai