

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

**ITA No.379/Ind/2025**  
**Assessment Year:2017-18**

Vrahatakar Sahakari Sanstha Maryadit, Amletha, Namli, Ratlam (Assessee/Appellant)	<b><u>बनाम/</u></b> <b>Vs.</b>	ITO-1 Ratlam (Revenue/Respondent)
<b>PAN: AAAAV2749J</b>		
Assessee by	Shri Kaide Kangsawala, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	12.01.2026	
Date of Pronouncement	22.01.2026	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first-appeal bearing DIN: ITBA/APL/S/250/2024-25/1073849333(1) dated 28.02.2025 passed by learned Commissioner of Income-Tax (Appeals)-Addl./JCIT(A)-4, Mumbai ["CIT(A)"] which in turn arises out of assessment-order dated 31.10.2019 passed by learned ITO-1, Ratlam ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The background facts leading to present appeal are such that the assessee, a co-operative society, filed its return of income of AY 2017-18 u/s 139 declaring a total income of Rs. Nil after claiming deduction u/s 80P. The case of assessee was selected for scrutiny-assessment and the AO issued statutory notices u/s 143(2)/142(1) which were complied by assessee. Ultimately, the AO passed assessment-order dated 31.10.2019 u/s 143(3) denying deduction u/s 80P and thereby assessing total income at Rs. 20,95,570/-. Aggrieved, the assessee carried matter in first-appeal but the CIT(A) dismissed assessee's appeal for non-prosecution. Now, the assessee has approached this Tribunal.

3. Ld. AR assessee at first submits that the section 250(6) of the Income-tax Act, 1961 provides *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*. He further submits that in present case, the Ld. CIT(A) has dismissed assessee's first appeal although due to non-prosecution by assessee on the dates of hearing but still without complying with the mandate of section 250(6).

4. Ld. AR has also filed a "Written-Submission" as well as an "Application for additional evidences"; these are scanned and re-produced below:

**Written-Submission:**

BEFORE THE INCOME TAX APPELLATE TRIBUNAL, INDORE BENCH,  
INDORE

ITA NO. ITA 379/IND/2025  
ASST. YEAR: 2017-18

Vrahatakar Sahakari Sanstha  
Maryadit Amletha  
Amletha, Namli, Ratlam (M.P.)  
PAN: AAAAV2749J

Vs

ITO-1,  
Ratlam, (M.P)

(APPELLANT)

(RESPONDENT)

**WRITTEN SUBMISSIONS**

1. **Background of the Appellant:**

The appellant is a **Primary Agricultural Credit Co-operative Society (PACS)** registered under the **MP State Co-operative Societies Act, 1960**, engaged in:

- Providing **credit facilities to its members**,
- Sale of **fertilizers, seeds, pesticides, agricultural inputs**,
- Operation of **Public Distribution System (PDS) for members**,
- Other incidental agricultural services.

These facts are duly recorded in:

- **Statement of Facts filed before ITAT**
- **Detailed Submission Before AO**

The assessee claimed deduction of **₹20,95,571/- u/s 80P**, including:

- 80P(2)(a)(i) – 100% profits from business of providing credit facilities
- 80P(2)(iv) – 100% profit from sale of fertilizers, seeds & pesticides to members.
- 80P(2)(c)(ii) – ₹1,00,000
- 80P(2)(d) – Interest/dividend income from co-operative banks

The AO disallowed the claim **without proper examination**, merely alleging that assessee is “working like a bank”.

2. **PRELIMINARY LEGAL OBJECTIONS (JURISDICTIONAL DEFECTS)**

2.1. **Violation of Natural Justice**

The assessee filed detailed submissions (6 pages), including legal precedents, audit report, and computation.

AO did not:

- Consider submissions,
- Rebut the judicial precedents cited,
- Provide opportunity for cross-examination or further clarification.

The order is mechanical and non-speaking.

3. **MERITS OF THE CASE – DEDUCTION u/s 80P**

3.1. **Assessee is a Primary Agricultural Credit Society (PACS)**

Repeatedly stated and evidenced in:

- Submission Before AO (page 1–3)

“Assessee is Primary Agriculture Credit Co-operative Society (PACS), hereinafter said as ‘Society’...”

PACS are **expressly eligible** for deduction u/s 80P(2)(a)(i).

**Supreme Court in Mavilayi Service Co-op Bank Ltd (2021):**

- AO cannot deny deduction if society is a PACS.
- The nature of income must be tested vis-à-vis **members**, not general public.
- Activities of granting loans and sale of agricultural requirements are **core PACS functions**.

3.2. **AO incorrectly treated the assessee as a “bank”**

AO’s conclusion is contrary to fact and law:

- PACS is regulated under **State Co-op Society Act**, not Banking Regulation Act.
- PACS lend **only to members**.
- PACS cannot accept deposits from public; they are not “banks”.

As clarified in submission:

“The society is not allowed to take loan or financial assistance from banks other than District Central Cooperative Bank.”

Thus the AO’s assumption is **factually wrong**.

**3.3. Eligibility of each income stream for 80P deduction**

**(A) Interest from loans to members – Allowed u/s 80P(2)(a)(i)**

Supported by:

- *Mavilayi SC*
- *Kerala State Co-op Agricultural & Rural Development Bank SC*
- CBDT Circular 14/2006

The assessee earned interest only from **member loans** as declared by AO submission:  
“Society has given loans to its members...Interest shown in P&L.”

**(B) Sale of fertilizers, seeds, pesticides to members – Deduction u/s 80P(2)(iv)**

AO ignored direct statutory provision:

- 100% deduction for societies engaged in **purchase & sale of agricultural implements, seeds, livestock, etc., to members.**

AO's order is **per incuriam** ignoring the law.

**(C) PDS commission – Eligible as “business income from activity of members”**

Judicial precedents:

- *ITO v. Trilokpur Co-op Society* (ITAT Chandigarh)
- *Gopalpur Co-op Marketing Society* (ITAT Indore)

PDS supplies are essentially **distribution of essential commodities to members**, forming part of “agricultural & rural credit operations”.

**(D) Interest on deposits with District Cooperative Bank – Deduction u/s 80P(2)(d)**

AO wrongly invoked *Totgars* case.

**Distinction:**

- In *Totgars*, surplus funds were **non-statutory surplus** kept in nationalized banks.
- Here, funds are compulsorily placed with **District Co-operative Bank** as per regulatory requirement.

Submission before AO clarifies:  
“Investments represent compulsory nature of investments to be made in shares or FDRs with District Central Co-op Bank.”

Hence *Totgars* does not apply.

Supreme Court in *Mavilayi* clarifies that *Totgars* cannot be used to deny 80P for PACS.

Further, 80P(2)(d) specifically allows:

“Interest or dividend from investment with other co-operative societies.”

District Central Co-op Bank is a **co-operative society**.

Thus, fully allowable.

**(E) 80P(2)(c)(ii) – deduction of ₹1,00,000**

AO has not disputed availability of this statutory deduction.

**4. CASE LAWS IN FAVOUR OF THE ASSESSEE**

**Supreme Court**

1. **Mavilayi Service Co-op Bank Ltd (2021)** – PACS eligible for 80P deduction; AO cannot treat PACS as banks.
2. **Kerala State Co-op Agricultural & Rural Development Bank (2023)** – Interest from loans to members is deductible.
3. **Kizhathadiyoor Service Co-op Bank (2023)** – 80P cannot be denied merely because society performs multiple activities.

**High Courts / ITAT**

4. *Rajasthan Rajya Sahakari Upbhokta Sangh Ltd* (Raj HC) – 80P allowable even on incidental income.
5. *Totgars* distinguished in several cases (ITAT Indore, Chandigarh, Cochin).
6. *ITO v. Trilokpur Co-op Society* – PDS commission eligible for 80P.

**5. REBUTTAL OF AO'S ORDER**

AO's entire assessment is based on:

- Misreading society as “bank”.
- Ignoring statutory provisions of 80P(2)(a)(i), 80P(2)(iv), 80P(2)(d).
- Non-consideration of detailed submission of assessee.
- No factual adverse finding.
- No examination of audited accounts or bye-laws.

These defects make the order **unsustainable**.

**6. PRAYER**

In view of the above facts, legal position, judicial precedents and jurisdictional defects, it is most respectfully prayed that the Hon'ble ITAT may be pleased to:

1. **Quash the assessment order u/s 143(3)** as void ab initio for invalid 143(2) notice and breach of limited scrutiny instructions.
2. **Allow full deduction u/s 80P(2)(a)(i), 80P(2)(iv), 80P(2)(c)(ii), 80P(2)(d)** as claimed.
3. **Delete the entire addition of ₹20,95,571/-.**
4. Grant any other relief deemed fit in the interest of justice.

Date: 11-01-2026

Place: Ratlam

APPELLANT

***Application for additional evidences:***

**BEFORE THE INCOME TAX APPELLATE TRIBUNAL, INDORE BENCH,  
INDORE**

**ITA NO. ITA 379/IND/2025**  
**ASST. YEAR: 2017-18**

Vrahatakar Sahakari Sanstha  
Maryadit Amletha  
Amletha, Namli, Ratlam (M.P.)  
PAN: AAAAV2749J

Vs

ITO-1,  
Ratlam, (M.P)

(APPELLANT)

(RESPONDENT)

**PRAYER OF ADMISSION OF ADDITIONAL EVIDENCES**

1. It is submitted that we are enclosing here with Interest Certificate of Rs. 29,58,916/- Certificate No. 415 Dated 20-11-2025 from Jila Sahkari Kendriya Bank Maryadit, Ratlam.
2. Copy of Society Registered under the MP State Co-operative Societies Act, 1960 registration no. 11946 Dated 15-03-1955.
3. It is humbly prayed that in the interest of substantial Natural justice, the same may kindly be admitted As additional evidence under Rule 46A of the Income Tax Rules, 1961.

Place: Ratlam  
Date: 11-01-2026

Enclosed as above.

5. Finally, Ld. AR prays that the impugned first appeal-order passed by Ld. CIT(A) may be set aside and this matter may be restored to CIT(A) for a proper adjudication. Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before CIT(A).

6. Ld. DR for revenue agrees with the submissions and prayer of Ld. AR but makes a request to direct the assessee to represent his case before CIT(A) and do not seek unnecessary adjournments.

7. In view of above submissions of parties; having regard to the principle of natural justice and also bearing in mind that no prejudice would be caused to revenue if the present matter is restored at the level of CIT(A), we remand this matter back to the file of CIT(A) for adjudication afresh. The CIT(A) shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by CIT(A) and do not seek unnecessary adjournments failing which the CIT(A) shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

**8. Resultantly, this appeal is allowed for statistical purpose.**

Order pronounced in open court on 22/01/2026

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

**Indore**

दिनांक /Dated : 22/01/2026

Patel/Sr. PS

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Vrahatakar Sahakari Sanstha Maryadit**  
**ITA No. 379/Ind/2025 - AY 2017-18**

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore