

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**  
**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER**  
**ITA No. 7341/MUM/2025 (AY : 2020-21)**  
*(Physical hearing)*

The Everard Tower Co-operative Housing Society Limited B-1007, Everard Tower CHS Ltd. Eastern Express Highway, Sion (East), Mumbai – 400022. [PAN No. AAAAE2800M]	Vs	ITO, Ward-41(1)(2), Mumbai Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai – 400051.
Appellant / Assessee		Respondent / Revenue

Assessee by	Ms. Vinita Nara, Advocate
Revenue by	Shri Adesh Rai, Sr. DR (virtually)
Date of institution of appeal	13.11.2025
Date of hearing	21.01.2026
Date of pronouncement	21.01.2026

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the assessment order of Id.

CIT(A)/NFAC dated 20.08.2025 for A.Y. 2016-17. The assessee has raised the

following grounds of appeal:

*"1. Ld. CIT(A) / (NFAC) erred in confirming the action of Ld. AO of disallowing the deduction though same was allowed on identical facts or AY 2017-18 vide order us. 143(3).*

*2. Ld. CIT(A) / (NFAC) erred in confirming the action of Ld. AO of disallowing deduction u/s 80P(2)(d) of Rs. 35,71,053."*

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that a very short dispute is involved in the present appeal. The assessee is a co-operative society. The assessee earned interest on fixed deposit and on other deposits with co-operative banks namely Shamrao Vithal co-op Bank,

Saraswat Co-op Bank, Citizens Credit Co-op Bank, Mumbai District Central Co-op Bank, and Maharashtra State Co-op Bank Limited aggregating of Rs. 35,70,053. The figure of interest income is not in dispute. The assessing officer disallowed such interest income on the basis of decision of Karnataka High Court in PCIT vs Totgars Co-op Society in ITA No. 100064 to 100068 of 2016 dated 16.08.2017 and the decision of State Bank of India vs CIT (2016) 389 ITR 578 (Guj), CIT vs Punjab State Co-op Agricultural Development Bank Ltd. (2016) 389 ITR 607 (P&H) and the decision of Hon'ble Apex Court in Totgars Co-op Sale Society Ltd. vs ITO (2010) 322 ITR 283 (SC). The Id CIT(A) confirmed action of assessing officer. The ratio of such decision is not applicable on the facts of the present case. The said decision is basically on deduction section 80P(2)(a). However, the assessee claimed deduction clause under (d) of sub-section (2) of section 80P. There are series of decision wherein it has been consistently held that co-operative banks are primary co-operative society and the assessee is eligible for deduction of interest earned on fixed deposit with savings bank deposit with such co-operative bank. To support her submissions, she relied on the following case laws;

- ❖ Royal Industrial Estate Cooperative Limited Vs DCIT in ITA No. 3792/Mum/2023 dated 29/02/2024,
  - ❖ Rustomjee Aspiree Premises Coop. Society Limited Vs ITO in ITA No. 1195/Mum/2023 dated 10.07.2023,
  - ❖ Murude Sahakari Patsanstha Maryadit Vs ITO in ITA No. 1058/Mum/2017 dated 21.07.2017.
3. On the other hand, the Id. Sr. DR for the Revenue supported the order of Id. CIT(A). The Id. Sr. DR for the Revenue submits that Hon'ble Supreme Court in Totgars Co-operative Sale Society vs ITO 322 ITR 283 (SC) held that assessee

is not eligible for deduction of interest income earned from fixed deposit or surplus parked with bank is not eligible for deduction under section 80P(2)(d). The cooperative bank cannot be treated as cooperative society.

4. In short rejoinder submission, the Id. AR of the assessee submits that Karnataka High Court in its subsequent decision distinguished the ratio of decision of Totgars Co-op Sale Society Ltd. vs ITO (322 ITR 283) in subsequent decision 392 ITR 74 (Karnataka) wherein it was held that for the purpose of section 80P(2)(d), a co-operative bank should be considered as co-operative society. The decision relied by lower authorities is basically relates to deduction under section 80P(2)(a).
5. I have considered the submission of both the parties and gone through the orders of lower authorities. I find that there is no dispute about the quantum of interest earned from FD and Savings Bank with various co-operative Banks. Short dispute is as to whether the co-operative bank should be considered a so-operative society or not. I find that Hon'ble Karnataka High Court in its subsequent decision in PCIT vs Totgars Co-op Sale Society Ltd. 392 ITR 74 held that for the purpose of section 80P(2)(d), co-operative bank should be considered as a co-operative society. The decision in Totgars Co-op Sale Society Ltd. vs ITO 322 ITR 283 dealt with interpretation and the deduction which is applicable under section 80P(2)(a). I further find the similar view was taken by Gujarat High Court in Surat Vankar Shahkari Sangh Vs ACIT (2016) 72 taxmann.com 169 (Gujarat), Allahabad High Court in case of UP Co-operative Sugar Factory (2013) 17 taxmann.com 58 (Allahabad) and Punjab & Haryana High Court in Haryana Co-operatives Sugar Mill Ltd. (1989)

46 Taxman 28. Thus, in view of the aforesaid legal discussion wherein it has been consistently held that for the purpose of deduction under section 80P(2)(d), the co-operative bank is to be treated as primary co-operative society, therefore, the assessee is eligible for deduction of interest income earned from such cooperative banks. The ratio of decision relied by the lower authorities in case of Co-op Sale Society Ltd. vs ITO (322 ITR 283) is not applicable on the facts of the present case, as the dispute in the said case relates to deduction under section 80P(2)(a) of the Act. Said sub-clause deals with the income earned by Cooperative society on its activities. In the result, the grounds of appeal raised by assessee are allowed.

6. In the result, the appeal of assessee is allowed.

Order pronounced in the open Court on 21/01/2026.

Sd/-

**PAWAN SINGH**  
**JUDICIAL MEMBER**

MUMBAI, Dated: 21/01/2026  
*Biswajit*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai