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

BEFORE SHRI PRASHANT MAHARISHI,VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.861/Bang/2025
Assessment Year : 2020-21

M/s. Sri Ramaseva Bahusara Kshariya Co-op. Society Ltd. 01, Ramanna Setty Park SPM Road, Doddapete SO Shimoga 577 202 Karnataka **PAN NO :AAAJS0083P**	**Vs.**	Principal CIT Bengaluru-1
APPELLANT		**RESPONDENT**

Appellant by	:	Sri V. Srinivasan, A.R.
Respondent by	:	Sri Kiran D., D.R.

Date of Hearing	:	11.12.2025
Date of Pronouncement	:	30.01.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of ld. PCIT, Bengaluru-1 dated 05.02.2025 vide DIN & Order No. ITBA/REV/F/REV5/2024-25/1072922073(1) passed u/s 263 of the Income Tax Act, 1961 (in short "the Act") for the assessment year 2020-21.

2. The assessee has raised the following grounds of appeal:

1. The order of the learned PCITpassed u/s. 263 of the Act in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned PCIT failed to appreciate that there was no error much less an error prejudicial to the interest of the revenue in the order passed by the learned Assessing Officer allowing deduction u/s. 80P[2][a][i] of the Act warranting revision u/s.263 of the Act and consequently, the impugned order passed by the P.C.I.T. directing fresh assessment requires to be cancelled.

3. The learned PCIT. is erred in holding that the order of assessment passed u/s. 143[3] rws 144B of the Act dated 26/09/2022was erroneous and prejudicial to the interest of revenue as it was not passed in accordance with the decision of the Hon'ble Supreme Court and Jurisdictional High Court of Karnataka prejudicial to the interests of the assessee.

4. The learned PCIT is not justified in law in directing the learned A.O. to deny the deduction u/s 80P[2][a][i] of the Act by holding that the interest income received was not operational income having regard to the decision of the Hon'ble Supreme Court in the case of Totagars Co-operative Sale Society [322 ITR 283] and the decision of the Hon'ble Karnataka High Court in the case of Totagars Co-operative Sale Society [395 ITR 611] under the facts and in the circumstances of the appellant's case.

5. The learned PCIT ought to have appreciated that the interest income earned by the appellant on deposits in Co-operative banks/ financial institutions other than co-operative societies was regarded as income under the head "Other Sources" and therefore, the appellant had neither claimed as deduction u/s. 80P[2][a][i] or u/s. 80P[2][d] of the Act in first instance at all and therefore, the assessment order passed by the learned A.O. u/s. 143[3] rws 144B dated 24/09/2022 cannot be considered as prejudicial to the interest of revenue under the facts and in the circumstances of the appellant's case.

6. Without prejudice to the above, the learned PCIT ought to have appreciated that the interest income earned by the appellant was liable for assessment under the head Business in as much as the interest earned was from out of the funds of the business of providing credit facilities to the members for which detailed submissions were made before the learned A.O., and furthermore, the interest income to the extent it related to deposits maintained as part of the statutory reserves ought to have been assessed under the head "Business" only and thus, there was no error in the deduction allowed to the appellant u/s 80P[2][a][i] of the Act under the facts and in the circumstances of the appellant's case.

7. Without prejudice, the learned P.C.I.T ought to haveheld that the appellant was entitled to the alternate claim for deduction u/s 80P[2][d] of the Act to the extent of interest income earned from co-operative banks which are nothing but co-operative societies in possession of a license from the RBI under the facts and in the circumstances of the appellant's case.

8. Without prejudice to the above, the learned PCIT ought to have directed the learned A.O. to allow the deduction u/s. 57 of the Act towards cost of funds should the interest income be assessed under the head "other sources" under the facts and in the circumstances of the appellant's case.

9. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered.

For Sri Ramaseva Bhavasara Kshatriya

3. The brief facts of the case are that the assessee is a Co-operative society registered under the Karnataka Co-operative Societies Act, 1959. The assessee earns income from lending activities to its members, some interest on reserve funds and on deposits made with other societies/banks out of member's fund. The assessee society filed its return of income for the assessment year 2020-21 on 28/12/2020, declaring total income of Rs. Nil after claiming deduction under Chapter VIA of Rs.68,66,832/-. Thereafter, the said return was processed u/s 143(1) of the Act on a total income of Rs. 18,00,000/-. Aggrieved by the intimation passed u/s 143(1) of the Act, the assessee preferred an appeal before the ld. CIT(A)/NFAC and the same is still pending for disposal.

3.1 While the position thus remained, the case of the assessee was selected for complete scritiny assessment under CASS for examination/verification on the following issues-

1. High Creditors /Liabilities
2. Investments/Advances/loans
3. Deduction from Total under chapter VI-A
4. Other income reported in Schedule A-OI not credit to P & L account.

Accordingly, the notices u/s 143(2) as well as 142(1) of the Act along with show cause notices were issued from time to time calling for the details. In response to statutory notices, the assessee filed the details as called for on 14/07/2021 & 28/03/2022. The AO after proper examination of the details along with the documentary evidences/written submission/explanations etc. submitted by the assessee, completed the assessment proceedings u/s. 143(3) r.w.s 144B of the Act by observing as follows-

1) During the course of assessment proceedings, the assessee submitted that it is completely eligible to obtain benefits/deductions as stipulated u/s 80P(2)(a)(i) of the Act.

2) In support of its claim the assessee also submitted the latest decision of the **Apex Court in the Mavilayi Service C-operative Bank Ltd**. & Ors vs. Commissioner of Income Tax & ANR…

3) In A.Y. 2018-19 also the assessee case was selected for scrutiny for similar issue for section 80P(2)(a)(i) deduction and the **assessee claimed was accepted by the department** based on the judgement pronounced by the Hon'ble Karnataka High Court in the case of **M/s Tumkur Merchants Souharda Credit Co-operative Ltd**. vs. ITO (230 Taxmann 309) as the assessee is not engaged in any non-co-operative activities.

4) Submissions/reply/documents/details have been examined vis-à-vis reasons for which case was selected for scrutiny and in light of the same it is held that the activities of the assessee are in accordance with the provisions contained u/s 80P(2)(a)(i) of the Act & therefore deduction claimed by the assessee u/s 80P is allowed & income as per 143(1)(a) is accepted.

The AO with the above observations concluded the completed Scrutiny assessment u/s 143(3) of the Act by holding that the activities of the assessee are in accordance with the provisions contained u/s 80P(2)(a)(i) of the Act & therefore deduction claimed by the assessee u/s 80P is allowed.

3.2 The ld. PCIT, Bengaluru-1 upon calling for the assessment records and examination, observed that the order passed by the AO u/s. 143(3) r.w.s. 144B of the Act on 26/09/2022 was erroneous in so far as it is prejudicial to the interest of revenue in view of clause (d) to explanation 2 of section 263 of the Act on the issue of receipt

of sum of Rs. 1,04,88,294/- as interest income earned on investments and deposits held with banks/financial institutions other than co-operative societies. Further, rest of the interest income had been claimed as deduction u/s 80P(2)(a)(i) of the Act**.** In view of the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. vs. Income Tax Officer, Karnataka [2010] 188 Taxman 282(SC), the impugned interest income is not eligible for deduction u/s 80P(2)(a)(i) of the Act and the same **was ought to be included** under the head of "Income from other Sources" which has **to be taxed u/s 56 of the I T Act** and not income from Business/Profession. However, the deduction u/s 80P(2)(a)(i) of the Act had been wrongly allowed in the assessment order.

3.3 The ld. Commissioner was of the opinion that the interest income under question is not the interest received from the members of the assessee society for providing credit facilities to them. What is sought to be taxed u/s 56 of the Act is the interest income arising on the funds invested in co-operative banks and financial institutions other than 'Co-operative societies'. Further, the ld. Principal Commissioner also relied upon the decision of the ITAT, Bengaluru in the case of Alankar Primary Agricultural Credit Co-operative Society vs. ITO [2024] 165 taxmann.com 170(Bangalore- Trib.) in which the alternative claim of the assessee with regard to claim of deduction u/s 80P(2)(d) of the Act was also rejected. The ld. Principal Commissioner also noted that the jurisdictional Hon'ble High Court of Karnataka in the case of PCIT vs. Totagars Co-operative Sale Society [2017] 83 taxmann.com 140 (Karnataka) has also denied the claim of deduction u/s 80P(2)(d) of the Act in respect of interest income earned from co-operative banks/financial institutions other than co-operative society. As the AO has passed the assessment order without verification of these aspects as per law laid down by the Hon'ble Supreme Court as well as Jurisdictional Hon'ble High

Court, the omission of the AO to allow the claim of deduction u/s 80P(2)(a)(i) of the Act on interest income received from co-operative banks/financial institutions other than co-operative societies renders the assessment order as erroneous and prejudicial to the interest of revenue in view of the clause (a) and clause (d) to explanation 2 of section 263 of the Act.

3.4 In response to the notices, the assessee submitted its reply by stating that assessee has been carrying on the credit business of accepting deposits from members and lending to the members only in accordance with the provisions of its bye laws and the Karnataka State Co-operative Societies Act,1959. The investments made in co-operative banks does not represent any excess money not in immediate requirement of the society and hence, it is a bonafide business investment done in the ordinary course of the business and it is attributable to the business activities of the assessee.

The assessee had claimed the interest income earned from co-operative society as deduction under 80P(2)(a)(i) of the Act in as much as the interest income had been earned from the investment made by the society, the source for which is deposits from the members which were not required immediately for the purpose of business and also **to comply with the statutory requirements** under the Karnataka Co-operative Society's Act. Further, the assessee submitted that the AO had allowed the deduction u/s. 80P(2)(a)(i) of the Act since the interest so earned is **attributable to the business of providing credit facilities**. It was submitted that the AO had rightly allowed the deduction u/s. 80P(2)(a)(i) of the Act as claimed by the society after proper examination & due application of mind since the interest earned cannot be considered as income from other sources. The assessee had also placed reliance on the certain judgments of Jurisdictional High Court claiming that the income

earned from deposit in Co-operative Bank may be treated as business income and accordingly deduction should be allowed u/s 80P(2)(a)(i) of the Act; without prejudice treating the same as income from deposits in co-operative Society and allow the deduction u/s 80P(2)(d) of the Act.

3.5 The ld. PCIT after perusal of the submission of the assessee did not accept the contentions of the assessee in view of the decisions of Hon'ble Supreme Court in the case of Totagars Co-operative Sale Society Limited vs. ITO as well as the decision of the Hon'ble Karnataka High Court in the case of Principal Commissioner of Income Tax vs. Totagars Co-operative Sale Society Ltd. (both cited supra) and thus held that the AO has passed the assessment order **without verification of these aspects** as per the ratio laid down by the Hon'ble Supreme Court & Jurisdictional High Court(Supra). **Thus, clause (a) and clause (d)** of the explanation-2 of section 263 are attracted in the instant case.

3.6 In view of the above, the ld. PCIT was of considered opinion that the assessment order passed u/s. 143(3) r.w.s 144B of the Act on 26/09/2022 was erroneous in so far as it is prejudicial to the interest of revenue as the interest income received from Co-operative banks /financial institutions other than co-operative societies **ought to be included under the head "Income from Other Sources"** which has to be taxed under section 56 of the Act and not income from Business/Profession. Accordingly the assessment order passed u/s. 143(3) r.ws. 144B dated 26/09/2022 was set-aside u/s. 263 of the Act with a direction to the AO to pass fresh assessment order in the light of the judgment of Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd vs. ITO [2010] 188 Taxman 282(SC).

4. Aggrieved by the order of the ld. PCIT passed u/s. 263 of the Act, dated 05/02/2025, the assessee has filed the present appeal before this Tribunal. The assessee has also filed a paper book comprising 56 pages containing therein various documents/notice/ reply/objections/Audit report/Copy of ITR along with the case laws relied upon by the assessee in support of its case.

5. Before us, the ld. A.R. of the assessee vehemently submitted that the order passed by the ld. PCIT is illegal & without jurisdiction as neither the order passed by the AO is erroneous either of fact or of law nor prejudicial to the interest of revenue to the income tax administration as a whole. Further ld. AR of the assessee submitted that the ld. PCIT failed to appreciate that there was no error by the AO in allowing the deduction claimed u/s. 80P(2)(a)(i) of the act in view of various judgments of jurisdictional High Court which held that interest earned from co-operative bank/commercial bank are **attributable to the business** of assessee and can be allowed u/s. 80P(2)(a)(i) of the Act. Further, the ld. A.R. of the assessee submitted that the ld. Principal Commissioner has no power to substitute the judgement as taken by the AO and held to be erroneous and prejudicial interest to the revenue especially when the AO has taken one of the plausible view. Lastly, the ld. A.R. of the assessee submitted that in the pretext of revision proceedings, the ld. PCIT cannot direct the AO to tax the interest income under income from other sources especially when AO being Quasi-judicial authority after proper examination had taken an opinion which is also in accordance with the decision of the Apex Court & Jurisdictional High Court.

6. The ld. D.R. on other hand supported the order of the ld. PCIT and vehemently submitted that the Order of the AO was erroneous in so far as it is prejudicial to the interest of revenue as the interest income earned from Co-operative/Commercial banks should have

been taxed as “Income from Other Sources” under the provisions of section 56 of the Act. The ld. DR also heavily relied upon the judgment of the Supreme Court in the case of Totagars Co-operative Sale Society Limited vs. ITO (Supra), Citizen Co-operative Society Ltd. (397 ITR 1) as well as Kerala State Co-operative Agricultural and Rural Development Bank Ltd. in Civil Appeal No. 10069 of 2016 along with the decision of the Hon’ble Jurisdictional High Court of Karnataka in the case of Principal Commissioner of Income Tax vs. Totagars Co-operative Sale Society Ltd (supra) in support of his contention in order to justify the revision made by the commissioner.

7. We have heard the rival submission, perused material available on record. On going through the assessment order dated 26/09/2022, we take a note of the fact that the AO after being fully cognizant of the fact that in A.Y. 2018-19 also the assessee case was selected for scrutiny for similar issue for section 80P(2)(a)(i) deduction and the **assessee claimed was accepted by the department** based on the judgement pronounced by the Hon’ble Karnataka High Court in the case of **M/s Tumkur Merchants Souharda Credit Co-operative Ltd**. vs. ITO (230 Taxmann 309) as the assessee is not engaged in any non-co-operative activities had accordingly allowed the deduction claimed for the Asst. year 2020-21. Further, the AO has categorically held that the activities of the assessee are in accordance with the provisions contained u/s 80P(2)(a)(i) of the Act & therefore deduction claimed by the assessee u/s 80P is allowed. However, on going through the order of the ld. CIT, we take note of the fact that the main reason cited by the ld CIT is that the AO has passed the order by allowing the deduction claimed u/s 80P(2)(a)(i) of the Act on interest income received from co-operative banks/financial institutions other than co-operative societies whereas the same was ought to be included under the head of “ Income from Other Sources” which has to be taxed u/s 56 of the

Act & not income from business/profession in the light of the judgement of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. vs. Income-Tax Officer, Karnataka [2010] 188 Taxman 282 (SC). Therefore, we are of the considered opinion that it is not a case that no enquiry or verification was conducted by the AO. It is also not a case that the order has not been passed in accordance with any decision which is prejudicial to the assessee rendered by jurisdictional High Court or Supreme Court. In fact the AO relied upon the decision of the jurisdictional High court in the case of **M/s Tumkur Merchants Souharda Credit Co-operative Ltd**. vs. ITO (supra) in holding that the interest income earned are attributable to the business of the assessee. Further, we are also of the considered opinion that the judgement of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. vs. Income-Tax Officer, Karnataka (supra) relied upon by the ld. CIT is completely on different set of facts & thus distinguishable with the present facts. Thus, we are of the considered opinion that the AO has **taken a plausible view** in allowing the claim of the assessee u/s 80P(2)(a)(i) of the Act and therefore, in our considered opinion the ld. PCIT could not have set aside the order of assessment merely on the ground that the AO has not applied the law correctly.

7.1 In the similar facts & circumstances of the case, the co-ordinate bench of this Tribunal in the case of "Adarsha Souharda Sahakari Niyamit V. Pr. CIT " reported in (BANG-Trib.) 2026 ITL 470 has held as under-

"7. We have heard the rival submission, perused material available on record. We are of the considered opinion that in an appeal against an assessment order, the Tribunal exercises regular appellate jurisdiction over the assessment, examining the correctness of additions, disallowances, and other determinations made by the AO on facts and Law, however, for an appeal against a revision order u/s 263 of the Act, the Tribunal is essentially confine itself to examine (1) Whether the very assumption of 263 jurisdiction is valid (2) whether the PCIT's conclusion on "erroneous and prejudicial" are sustainable in law and (3) Whether due process (opportunity of

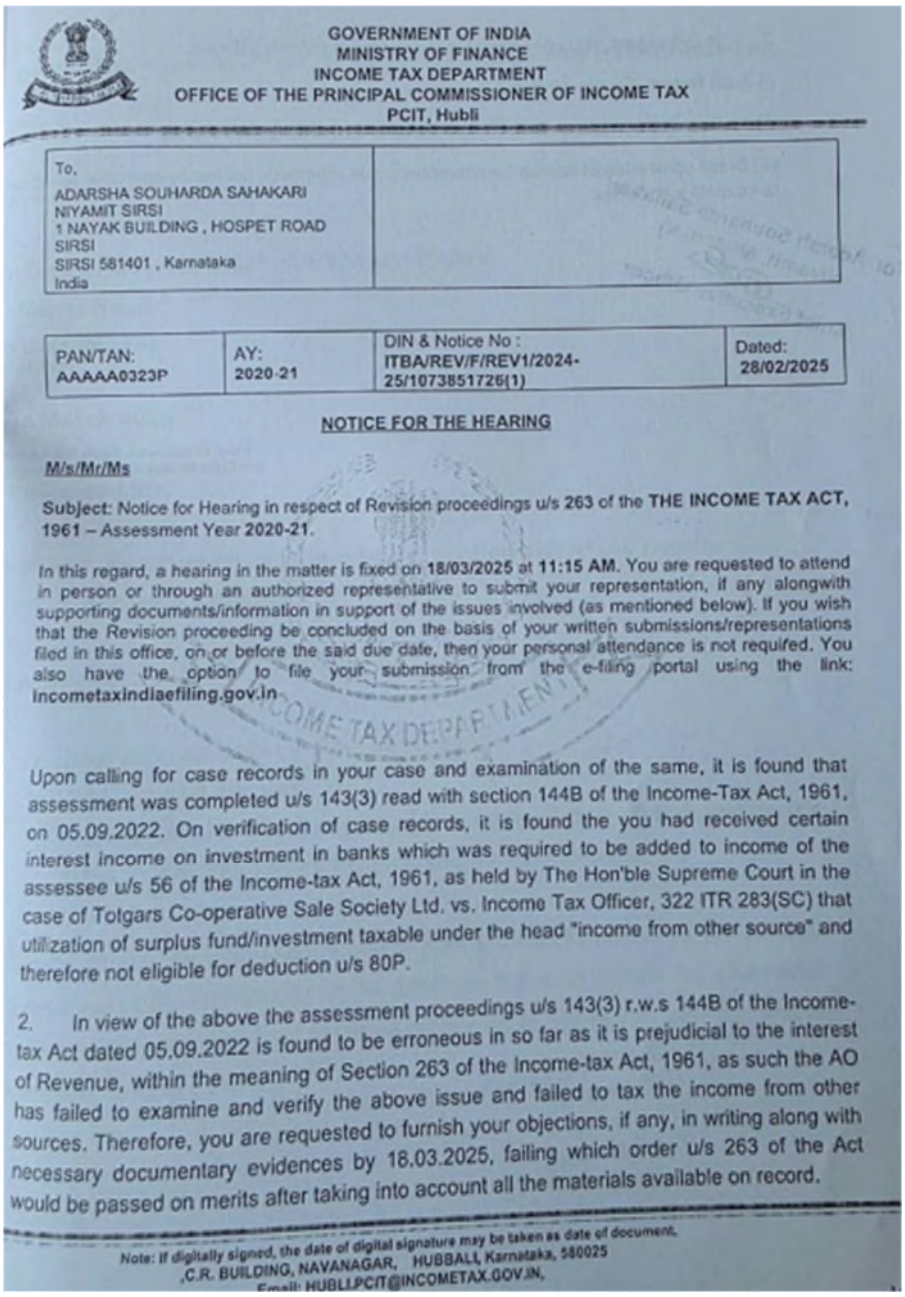
hearing, inquiry) was followed. While doing so equal importance must also be given to the AO's recorded enquiries and reasoning, the PCIT's satisfaction & reasons keeping in mind that section 263 of the Act is a revision, not the Appellate power. Further, when the PCIT has chosen to set aside the order of the AO, the Tribunal is not entitled to go beyond and sustain the Order of PCIT on grounds different from that relied by the ld. PCIT.

7.1 The division Bench of the Hon'ble High Court of Kerala in the case of Commissioner of Income Tax v. Chandrika Educational Trustreported in (1994) 207 ITR 108 had held as under:-

> *"In entertaining an appeal from the Commissioner's order what the Tribunal does is to examine whether the said order is sustainable in law and whether it is within the powers conferred by section 263. Therefore, when the Commissioner has chosen to set aside the order of the Income-tax Officer only on a particular ground, the Tribunal is not entitled to go beyond and sustain the order of the Commissioner on grounds different from that relied on by the Commissioner himself."*

7.2 The Hon'ble High Court of Kerala at Ernakulam in the case of Save a Family Plan (India) v. The Deputy Commissioner of Income Tax (Exemptions) in ITA No.81 of 2025 dated 05/11/2025 had again reiterated the same.

7.3 In view of the above, it is pertinent here to first go through the notice for hearing dated 28/02/2025 issued by the ld. PCIT stating the reasons for invoking the Revision Proceedings u/s 263 of the Act which are reproduced below for ease of reference & convenience-



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE PRINCIPAL COMMISSIONER OF INCOME TAX
PCIT, Hubli

To,
ADARSHA SOUHARDA SAHAKARI
NIYAMIT SIRSI
1 NAYAK BUILDING , HOSPET ROAD
SIRSI
SIRSI 581401 , Karnataka
India

PAN/TAN:	AY:	DIN & Notice No :	Dated:
AAAAA0323P	2020-21	ITBA/REV/F/REV1/2024-25/1073851726(1)	28/02/2025

NOTICE FOR THE HEARING

M/s/Mr/Ms

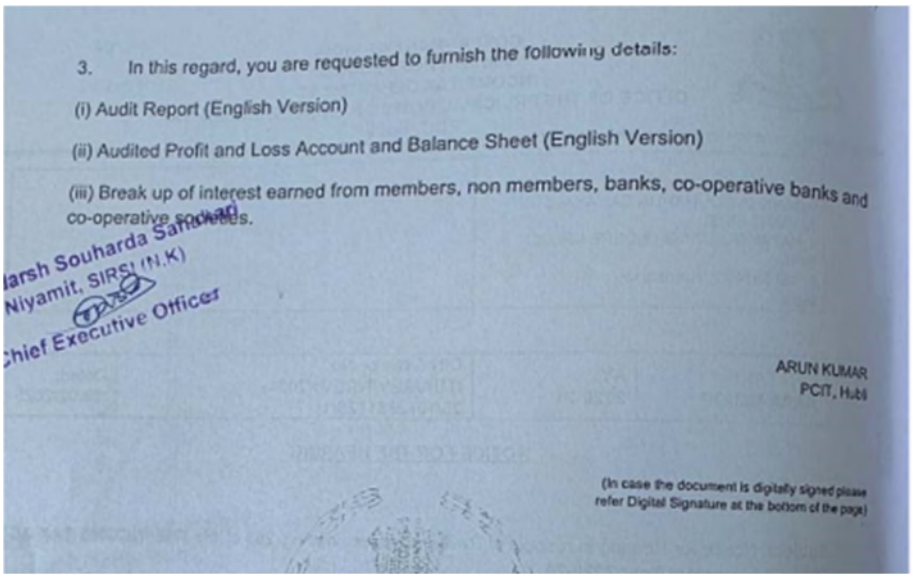
Subject: Notice for Hearing in respect of Revision proceedings u/s 263 of the **THE INCOME TAX ACT, 1961** – Assessment Year **2020-21.**

In this regard, a hearing in the matter is fixed on **18/03/2025** at **11:15 AM.** You are requested to attend in person or through an authorized representative to submit your representation, if any alongwith supporting documents/information in support of the issues involved (as mentioned below). If you wish that the Revision proceeding be concluded on the basis of your written submissions/representations filed in this office, on or before the said due date, then your personal attendance is not required. You also have the option to file your submission from the e-filing portal using the link: **incometaxindiaefiling.gov.in**

Upon calling for case records in your case and examination of the same, it is found that assessment was completed u/s 143(3) read with section 144B of the Income-Tax Act, 1961, on 05.09.2022. On verification of case records, it is found the you had received certain interest income on investment in banks which was required to be added to income of the assessee u/s 56 of the Income-tax Act, 1961, as held by The Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. vs. Income Tax Officer, 322 ITR 283(SC) that utilization of surplus fund/investment taxable under the head "income from other source" and therefore not eligible for deduction u/s 80P.

2. In view of the above the assessment proceedings u/s 143(3) r.w.s 144B of the Income-tax Act dated 05.09.2022 is found to be erroneous in so far as it is prejudicial to the interest of Revenue, within the meaning of Section 263 of the Income-tax Act, 1961, as such the AO has failed to examine and verify the above issue and failed to tax the income from other sources. Therefore, you are requested to furnish your objections, if any, in writing along with necessary documentary evidences by 18.03.2025, failing which order u/s 263 of the Act would be passed on merits after taking into account all the materials available on record.

Note: If digitally signed, the date of digital signature may be taken as date of document.
,C.R. BUILDING, NAVANAGAR, HUBBALI, Karnataka, 580025
Email: HUBLIPCIT@INCOMETAX.GOV.IN,



3. In this regard, you are requested to furnish the following details:

(i) Audit Report (English Version)

(ii) Audited Profit and Loss Account and Balance Sheet (English Version)

(iii) Break up of interest earned from members, non members, banks, co-operative banks and co-operative societies.

arsh Souharda Sahakari
Niyamit, SIRSI (N.K)
Chief Executive Officer

ARUN KUMAR
PCIT, Hubli

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

7.4 On going through the above show cause notice for hearing in respect of revision proceedings u/s. 263 of the Act, the reasons cited by the ld. PCIT primarily is that the assessee had received certain interest income on investment in banks which are required to be added to the income of the assessee u/s. 56 of the Act as held by the Hon'ble Supreme Court in the case of Totagars Cooperative sale Society Limited vs. Income Tax Officer (322 ITR 283) and in view of the above, the assessment proceedings u/s. 143(3) r.w.s 144B of the Act dated 02/09/2022 is found to be erroneous in so far as it is prejudicial to the interest of revenue within the meaning of section 263 of the Act, as such the AO has failed to examine and verify the above issue and failed to tax the income from other sources. Thus, we are of the considered opinion that the ld. PCIT had principally exercised his jurisdiction u/s. 263 of the Act merely because he is of the opinion that interest income on investment in commercial banks co-operative banks were required to be added to income of the assessee u/s. 56 of the Act in view of the Apex court decision cited supra. Further, we also take note of the fact that in the above said notice for hearing dated 28/02/2025, the ld. PCIT failed to even mention under which clause(s) of the explanation- 2 of section 263 of the Act, the Assessment order shall be deemed to be erroneous in so far as it is prejudicial to the interest of Revenue. Thus, this is not the case of the revenue that no enquiry has been conducted by the AO but in fact the ld. PCIT is of the opinion that interest income on investment in commercial banks co-operative banks were required to be added to income of the assessee u/s. 56 of the Act & accordingly the deduction claimed by the assessee u/s 80P(2)(a)(i) of the Act is not allowed.

7.5 Now before proceedings further, it is apposite here to mention the relevant provision of Income Tax Act which is reproduced below:-
Revision of orders prejudicial to revenue.

> *263. (1) The [[Principal Chief Commissioner or Chief Commissioner or Principal Commissioner] or] Commissioner may call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by the [Assessing] Officer [or the Transfer Pricing Officer, as the case may be,] is erroneous in so far as it is prejudicial to the interests of the revenue,*

he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, [including,

(i) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or

(ii) an order modifying the order under section 92CA; or

(iii) an order cancelling the order under section 92CA and directing a fresh order under the said section].

[[Explanation 1.]- For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,-

(a) An order passed [on or before or after the 1st day of June, 1988] by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,]shall include—

(i)an order of assessment made by the Assistant Commissioner [or Deputy Commissioner] or the Income Tax Officer on the basis of the directions issued by the [Joint] Commissioner under section 144A;

(ii)an order made by the [Joint] Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer [or the Transfer Pricing Officer, as the case may be,] conferred on, or assigned to, him under the orders or directionsissued by the Board or by the [Principal Chief Commissioner or] Chief Commissioner or [Principal Director General or] Director General or]Principal Commissioner or] Commissioner authorized by the Board in this behalf under section 120; [

(iii) an order under section 92CA by the Transfer Pricing Officer;]

(b) "record" [shall include and shall be deemed always to have included] all records relating to any preceding under this Act available at the time of examination by the [Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or] Commissioner;

*(c) Where any order referred to in this sub-section and passed by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,]had been the subject matter of any appeal [filed on or before or after the 1st day of June, 1988], the powers of the * [Principal Commissioner or]Commissioner under this sub-section shall extend [and shall be deemed always to have extended]to such matters as had not been considered and decided in such appeal.]*

[Explanation 2. – For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or Commissioner,-

(a)the order is passed without making inquiries or verification which should have been made;

(b)the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
(d)the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.
[Explanation 3.—For the purposes of this section, "Transfer Pricing Officer" shall have the same meaning as assigned to in the Explanation to section 92CA.]
[(2) No order shall be made under sub-section (1) after the expiry of two years from the end of the financial year in which the order sought to be revised was passed.]
(3) Not withstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.
Explanation. -In Computing the period of limitation for the purposes of subsection (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

7.6 On plain reading of the aforesaid provisions of the Act, it is very apparent that the ld. PCIT may call for and examine the record of any proceeding under the Act and if he considers that any order passed therein by the AO is erroneous in so far as it is prejudicial to the interests of the revenue, the ld. PCIT may after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment. This provision was the subject matter of interpretation by the Apex Court in the case of Malabar Industrial Co. Ltd. v. CIT [2000] 243 ITR 83/109 Taxman 66 (SC), where the Supreme Court has held as under:-

"A bare reading of this provision makes it clear that the prerequisite to the exercise of jurisdiction by the Commissioner suo motu under it, is that the order of the Income-Tax Officer is erroneous in so far as it is prejudicial to the interests of the Revenue. The Commissioner has to be satisfied of twin conditions, namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. If one of them is absent - if the order of the Income Tax Officer is erroneous but is not prejudicial to the Revenue or if it is not erroneous but is prejudicial to the Revenue recourse cannot be had to section 263(1) of the Act.
The phrase "prejudicial to the interests of the Revenue" is not an expression of art and is not defined in the act. Understood in its ordinary meaning it is of wide import and is not confined to loss of tax"."
"'..The scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. If due to an erroneous order of the Income-tax Officer, the Revenue is

losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue.
The phrase "prejudicial to the interest of the Revenue" has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue. For example, when an Income Tax Officer adopted one of the courses permissible in law and it has resulted in loss of Revenue; or where two views are possible and the Income Tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue, unless the view taken by the Income Tax Officer is unsustainable in law. It has been held by this Court that where a sum not earned by a person is assessed as income in his hands on his so offering, the order passed by the Assessing Officer accepting the same as such will be erroneous and prejudicial to the interests of the Revenue."

7.7 In the case of Dawjee Dadabhoy & Co. v. S.P. Jain [1957] 31 ITR 872 (Cal.) explaining the meaning of the words prejudicial to the interest of the revenue it was held as under:

"The words, "prejudicial to the interests of the revenue", have not been defined, but it must mean that the orders or assessment challenged are such as are not in accordance with law, in consequence whereof the lawful revenue due to the State has not been realised or cannot be realised. It can mean nothing else."

7.8 Thus, we are of the considered opinion that the ld. Principal Commissioner gets the jurisdiction to revise any proceedings under this Act if he considers that any order passed therein by the Assessing Officer is erroneous insofar as it is prejudicial to the interest of the Revenue. Therefore, it is clear that the ld. PCIT cannot exercise the power of revision solely on the ground that the order passed is erroneous. The ld. PCIT gets jurisdiction only if such erroneous order is also prejudicial to the interest of the Revenue. Prejudicial to the Revenue means, lawful revenue due to the State has not been realized or cannot be realized. In other words, by the order of the Assessing Authority if the lawful revenue to the Government has not been realized or cannot be realized, as the said order is prejudicial to the interest, of the Revenue and also erroneous, the ld. PCIT gets jurisdiction to interfere with the said order under section 263. Therefore, for attracting section 263, the condition precedent is (a) the order of Assessing Officer sought to be revised is erroneous and (b) it is prejudicial to the interest of the Revenue. If one of them is absent, i.e., if the order of the Income tax officer is erroneous but is not prejudicial to the Revenue, recourse cannot be had to section 263(1) of the Act. The satisfaction of both the conditions stipulated in the section is sine qua non for the Commissioner to exercise his jurisdiction under section 263 of the Act.

7.9 Further, the term 'erroneous' has not been defined under the Act. The Apex Court in the above case also held that an incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being

erroneous. In the same category fall orders passed without applying the principles of natural justice or without application of mind. Further, the phrase 'prejudicial to the interests of the revenue' is not an expression of art and is also not defined in the Act. The various High Courts have treated loss of tax as prejudicial to the interests of the revenue.If due to an erroneous order of the AO, the revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the revenue. The phrase 'prejudicial to the interests of the revenue' has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the revenue. There must be some grievous error in the Order passed by the AO, which might set a bad trend or pattern for similar assessments, which on abroad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration. Further, what is erroneous and prejudicial to the interest of the revenue is judicially tested by plethora of decisions however, the scope was further extended by introduction of explanation 2 to section 263 which is inserted by the Finance Act, 2015 with effect from 01/06/2015. This explanation empowers the PCIT from 01.06.2015 to invoke the provision of section 263 to the assessment order to be erroneous in so far as it is prejudicial to the interest of the revenue, if, in the opinion of the Principal CIT,-

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been in accordance with any order, direction or instruction issued by the Board under section 119;or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person."

7.10 The Hon'ble High Court of Delhi in the case of Commissioner of Income-tax-XIII v. Ashish Rajpal reported in (Del-HC) (2010) 320 ITR 674 had remarkably extracted the parameters and principles laid down by the Courts which govern the exercise power by the Commissioner under the provisions of section 263 of the Act:-

(i)	*The power is supervisory in nature, whereby the Commissioner can call for and examine the assessment records*
(ii)	*The Commissioner can revise the assessment order if the twin conditions provided in the Act are fulfilled, that is, that the assessment order is not only erroneous but is also prejudicial to the interest of the revenue. The fulfilment of both the conditions is an essential prerequisite. [See Malabar Industrial Co. Ltd. v. CIT [2000] 243 ITR 83 (SC)]*

(iii)	*An order is erroneous when it is contrary to law or proceeds on an incorrect assumption of facts or is in breach of principles of natural justice or is passed without application of mind, that is, is stereo-typed, inasmuch as, the Assessing Officer, accepts what is stated in the return of the assessee without making any enquiry called for in the circumstances of the case, that is, proceeds with 'undue haste'. [See Gee Vee Enterprises v. Addl. CIT [1975] 99 ITR 375 (Delhi)].*
(iv)	*The expression "prejudicial to the interest of the revenue" while not to be confused with the loss of tax will certainly include an erroneous order which results in a person not paying tax which is lawfully payable to the revenue. [See Malabar Industrial Co. Ltd.'s case (supra)].*
(v)	*Every loss of tax to the revenue cannot be treated as being "prejudicial to the interest of the revenue". For example, when the Assessing Officer takes recourse to one of the two courses possible in law or where there are two views possible and the Commissioner does not agree with the view taken by the Assessing Officer which has resulted in a loss. [See CIT v. Max India Ltd. [2007] 295 ITR 282 (SC)].*
(vi)	*There is no requirement of issuance of a notice before commencing proceedings under section 263 of the Act. What is required is adherence to the principles of natural justice by granting to the assessee an opportunity of being heard before passing an order under section 263. [See Electro House's case (supra)].*
(vii)	*If the Assessing Officer acts in accordance with law his order cannot be termed as erroneous by the Commissioner, simply because according to him, the order should have*

	been written 'more elaborately'. Recourse cannot be taken to section 263 to substitute the view of the Assessing Officer with that of the Commissioner. [See CITv. Gabriel India Ltd. [1993] 203 ITR 108 (Bom.)].
(viii)	*The exercise of statutory power under section 263 of the Act is dependent on existence of objective facts ascertained from prima faciematerial on record. The evaluation of such material should show that tax which was lawfully exigible was not imposed. [See Gabriel India Ltd.'s case (supra)].*

7.11 Now, in the light of the above principles laid down by the Hon'ble Apex Court & Hon'ble Delhi High Court, it is apposite here to first examine whether the AO passed an assessment order without making inquiries or verification or the order had not been passed in accordance with any decision which is prejudicial to the assessee rendered by the Jurisdictional High Court or Supreme Court as alleged by the ld. PCIT in the revision Order. The facts in brief as observed by the AO are that the assessee is a registered Cooperative Society engaged in the business of providing credit facility to its members. For the AY 2020-21, the assessee society filed its return of income on 25/12/2020 by declaring total income of Rs. NIL after claiming deduction u/s. 80P(2)(a)(i) of the Act amounting to Rs.32,69,917/-. When we grabbed a look at the assessment order passed by the AO, we noticed that the AO after due verification & examining the details along with the documentary evidence/ written submission/ explanation etc. did not draw any adverse inference in respect of the issues for which the case was selected for Scrutiny under CASS. Further, the AO while passing the assessment Order had categorically observed that the assessee society uploaded its written submission with relevant documents and after considering all the written submissions, the assessment is being completed accepting the returned income. Undisputedly, the one of the issues for which the case of the assessee was selected for scrutiny was "Deduction from Total Income under Chapter VI-A".

7.12 Further on going through the notice u/s 142(1) of the Act dated 16/11/2021 issued along with the annexure (placed at 123- 124 of PB), we noticed that the AO had sent list of detailed questionnaire in respect of the issues for which the case was selected for complete Scrutiny. The AO had categorically asked for the following details with respect to the deductions claimed under chapter VI-A during the year under consideration as reproduced below

1. Computation of amount of deduction claimed under section 80P of the Act.
2. Note on eligibility of deduction u/s 80P of the Act.
3. Details of Loans & Advances given & taken during the year under consideration and for immediately preceding year.
4. Details of all type of investment made in F.Y. 2019-20.

7.13 Further, we take note of the fact that the assessee society in its reply filed on 18/03/2025 contended before the ld. PCIT that the assessee society had claimed deductions u/s 80P(2)(a)(i) of the Act as all its incomes are from carrying on its business activities with the members only, and hence the profit generated by these activities is fully deductible. The assessee society also submitted that as the society is engaged in carrying on the business of banking and providing credit facilities to its members as envisaged in section 80P(2)(a)(i) of the Act, they have claimed the deduction for entire amount under section 80P(2)(a)(i) of the Act only. Further, it was submitted that the earnings of the society i.e. interest income, Service charges, Nominal Member fees, Late fees, Dividend etc. are attributable to the activity of "providing credit facility to its members" and hence the deduction was rightly claimed under section 80P(2)(a)(i) of the Act. Lastly, the assessee society submitted that the assessee being a Souharda Co-operative under the Karnataka Souharda Sahakari Act,1997 and providing credit facilities to members are rightly eligible to claim deduction u/s 80P(2)(a)(i) of the Act.

7.14 Finally, the AO after considering & examining the details/written submission /explanation concluded the assessment proceedings by accepting the returned income. Therefore, we are of the considered opinion that it is not a case that the AO had passed an order of assessment without making any inquiries or verification and accordingly the allegation of the ld. PCIT that the AO had failed to examine and verify the issue of interest is not at all tenable. Where the enquiry had been conducted and the AO had reached a particular conclusion, though reference to such enquiries had not been made in the order of Assessment, it was apparent from the record, without any thing to show how & why the enquiry conducted by the AO was not in accordance with law, the invocation of jurisdiction by the ld. PCIT is unsustainable. The Assessing Officer while passing an order of assessment performed quasi Judicial function, applies his mind judiciously based on the facts & circumstances of the case for the purpose of protecting the interest of revenue. In the present case the AO after calling for the details/ explanation/evidence & after making proper enquiries or verification came to the conclusion that no adverse inference is drawn with respect to the issues selected for complete scrutiny. However, the ld. PCIT holds that the assessing officer had not conducted necessary inquiries or verification and not made the additions of interest income under the head "income from other sources" as per the decision of the Apex court & Jurisdictional High Court & thereby invoked clause (a) of the Explanation-2 of section 263 of the Act. No doubt clause (a) of the above explanation deems the order to be erroneous and prejudicial to the interest of the revenue in case order is passed without making enquiries or verification which should have been made in the opinion of the Principal Commissioner or Commissioner; however we observed that the AO passed an Order of assessment after making inquiries or verification and taken a plausible view. As discussed earlier the Assessing Officer in the order of assessment is not required to give detailed reasoning in respect of each and every item of deduction and therefore, the question whether there has been an application of mind before allowing deduction has to be examined from the record of the case. The question of lack of enquiry / inadequate enquiry is also required to be kept in mind and mere inadequacy of the enquiry would not confer jurisdiction on the Commissioner of Income Tax under Section 263 of the Act. In this regard we

respectfully rely on the judgement of the Hon'ble High court of Karnataka in the case of The Commissioner of Income Tax v. M/s Chemsworth Pvt. Ltd Reported in (2020) 275 TAXMAN 408 which has held as under-

"6. Thus, from close scrutiny of Section 263 it is evident that twin conditions are required to be satisfied for exercise of revisional jurisdiction under Section 263 of the Act firstly, the order of the Assessing Officer is erroneous and secondly, that it is prejudicial to the interest of the revenue on account of error in the order of assessment.

7. The aforesaid provision was considered by the Supreme Court in MALABAR INDUSTRIAL CO. LTD.I supra and it was held that the phrase 'prejudicial to the interests of the revenue' has to be read in conjunction with an erroneous order passed by the Assessing Officer and every loss of revenue as a consequence of the order of the Assessing Officer cannot be treated as prejudicial to the interest of revenue. It was further held that where two views are possible and the Income Tax Officer has taken one view with which the Commissioner does not agree, the order passed by the Assessing Officer cannot be treated as erroneous order prejudicial to the interest of the revenue. The principles laid down in the aforesaid decision were reiterated by the Supreme Court in 'CIT VS. MAX INDIA LTD.,' 295 ITR 282 (SC) and recently in 'ULTRATECH CEMENT LTD. AND ORS. VS. STATE OF RAJASTHAN AND ORS.', CIVIL APPEAL NO.2773/2020 DECIDED ON 17.07.2020.

8. In the backdrop of aforesaid well settled legal principles, we may examine the facts of the case in hand. In 'CIT VS. SUNBEAM AUTO LTD.', 332 ITR 167, it has been held by Delhi High Court that Assessing Officer in the order of assessment is not required to give detailed reasoning in respect of each and every item of deduction and therefore, the question whether there has been an application of mind before allowing expenditure has to be examined from the record of the case. The question of lack of enquiry / inadequate enquiry is also required to be kept in mind and mere inadequacy of the enquiry would not confer jurisdiction on the Commissioner of Income Tax under Section 263 of the Act. In the instant case, the Commissioner of Income Tax has held that the enquiry conducted by the Assessing Officer is inadequate and has assumed the revisional jurisdiction. The assessee has filed all the details before the Assessing Officer and Assessing Officer has accepted the contention of the assessee that no expenditure is attributable to the exempt income during the relevant Assessment Year. Thus, while recording the aforesaid finding, the Assessing Officer has taken one of the plausible views in allowing the claim of the assessee and therefore, the Commissioner of Income Tax could not have set aside the order of assessment merelyon the ground of inadequacy of enquiry, the order passed by the Commissioner of Income Tax is not sustainable in law and the same has rightly been set aside by the Tribunal.

In view of preceding analysis, the substantial question of law framed by this court is answered against the revenue and in favour of the assessee."

7.15 Thus, in the present case also the ld. PCIT had held that the enquiry conducted by the AO is not proper and assumed the revisional jurisdiction. The assessee society in the present case had filed all the details along with the written submissions & the AO had accepted the contention of the assessee that the interest received from Co-operative Bank/Commercial banks are attributable to the business of the assessee & accordingly allowed deduction u/s 80P(2)(a)(i) of the Act. Thus, the AO has taken a

plausible view in allowing the claim of the assessee and therefore, in our considered opinion the ld. PCIT could not have set aside the order of assessment merely on the ground of inadequacy of enquiry, the order passed by the ld. PCIT is not sustainable in law.

7.16 Now coming to the allegation of the ld. PCIT that clause (d) of the explanation-2 of section 263 is also attracted in the instant case. Undisputedly, clause (d) of the above explanation deems the order to be erroneous and prejudicial to the interest of the revenue in case order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person. We are of the considered opinion that in the present case the clause (d) of the explanation-2 of section 263 is also not applicable in the present case as the AO had passed an assessment order by taking a plausible view also supported by the various judgments of Hon'ble High Court of Karnataka. Further, we are also of the considered opinion that if two views were possible and the AO had taken one of the views, then also the same could not have been interfered with. Section 263 of the Act does not visualize a case of substitution of the judgment of the Commissioner for that of the subordinate authority who passed the order which is sought to be revised. The Order passed by a subordinate authority in exercise of its quasi-judicial power vested in him in accordance with law, cannot be termed erroneous merely because the Commissioner does not feel satisfied with the conclusions reached.

7.17 The following are the judgments of the Jurisdictional High Court in favour of the assessee which held that interest received by Co-operative Society from Co-operative Banks/Commercial Banks are attributable to the business of the assessee and accordingly allowed the deduction u/s 80P(2)(a)(i) of the Act

1) Tumkur Merchants Souharda Credit Cooperative Ltd. v. Income-tax officer Ward-V, Tumkur reported in [2015] 230 Taxman 309
2) Lalitamba Pattina Souhardasahakari Niyamita v. The ITO in ITA No.100004 of 2018 dated 19/02/2018
3) Guttigedarara Credit Co-operative Society Ltd. v. Income-tax Officer, Ward 2(2), Mysore(2015) 377 ITR 464

7.18 However on the other hand there are certain judgments of the same Jurisdictional High Court which held that the interest received from Co-operative Bank/Commercial Bank are liable to tax u/s 56 of the Act under the head " Income from other Sources" & these interest are even not liable for deduction even u/s 80P(2)(d) of the Act. These judgments are detailed below-

1) Pr. CIT v. Totagars Co-operative Sale Society (2017) 395 ITR 611
2) M/s Judicial Employees House Building Cooperative Society Limited v. Income Tax Officer in ITA No. 93/2024 dated 16/09/2025.

7.19 Thus, the point of discussing all above is that undisputedly the issue is debatable & the AO had taken one of the possible views. As can be seen that the view taken by the AO was a plausible view & it is also not a case that the view taken by him is unsustainable in law & therefore the same could not have been interfered with. Further, the Hon'ble Supreme Court in the case of Commissioner of Customs (import) v. Dilip Kumar & Co [2018] 95 taxmann.com 327 / [2018] 9 SCC 1 held

that if there are two views possible in the matter of interpretation of a charging section, the one favourable to the assessee needs to be applied. Applying the aforesaid ratio in the present fact of the case, we find no fault with the AO in taking the plausible view of treating the interest chargeable u/s 28 of the Act being attributable to the business of the assessee & allowed the deduction claimed u/s 80P(2)(a)(i) of the Act.

7.20 Further, when we look at the decision of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. V. Income Tax Officer reported in [2010] 188 Taxman 282/ 322 ITR 283 (SC) heavily relied upon by the ld. PCIT as well as the ld. DR, the Hon'ble Supreme Court was dealing with a case where the assessee therein, 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 payable to its members from whom the produce bought was invested in a short-term deposit/security. Such amount retained by the assessee therein 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. On these facts Hon'ble Supreme Court held that the assessing officer was right in taxing the interest income indicated above under section 56 of the Act. Hon'ble Supreme Court , also clarified that they are confining the said judgement to the facts of that case. Therefore, the reliance placed by the ld. PCIT on the decision of Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. V. Income Tax Officer (Supra) is completely distinguishable on the facts of the present case. In holding so, we draw our support & guidance from the decision of the Hon'ble High Court of Karnataka in the case of Guttigedarara Credit Co-operative Society Ltd. v. Income-tax Officer, Ward 2(2), Mysore reported in (2015) 377 ITR 464 which held as under-

"9. 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 ofCambay Electric Supply Industrial Co. Ltd. v. CIT [1978] 113 ITR 84 (at page 93) 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 SolicitorGeneral 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.'
10. 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 Co-operative 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 or the capital, if not immediately required to be lent to the members, the society 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.
11. In this context when we look at the judgment of the Apex Court in Totgars Cooperative Sale Society's case (supra), on which reliance is placed, the Supreme Court was dealing with a case where the assessee/Co-operative 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.
12. 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 its 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] 336 ITR 516/200 Taxman 220/12 taxmann.com 66."

7.21 Thus, we can safely conclude that the view taken by the AO was a plausible view and the view taken by him also cannot be said to be passed not in accordance with the decision of the Hon'ble jurisdictional High Court or Hon'ble Supreme Court. Thus, in the given facts and circumstances of the case, two views are possible

and one view has been adopted by the Assessing Officer, then that alone would not be sufficient to exercise the powers under section 263 of the Act by the Commissioner of Income-tax. In holding so we rely on the decision of the Hon'ble High Court of Karnataka in the case of Commissioner of Income-tax v. Gokuldas Exports reported in[2011] 333 ITR 214has held as under-

"15. By a long catena of judgments of various High Courts and the Supreme Court, it is too well settled that if in the given facts and circumstances of the case, two views are possible and one view has been adopted by the Assessing Officer, then that alone would not be sufficient to exercise the powers under section 263 of the Act by the Commissioner of Income-tax.

16. The phrase "prejudicial to the interests of the Revenue" under section 263 of the Act has to be read in conjunction with the expression "erroneous" order by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue.

17. It appears that one of the views that has been taken in this case by the Assessing Officer was on account of the fact that section 80HHC has been amended by Parliament as many as 11 times. Unfortunately, even after 11 amendments, the clouds of confusion have not been cleared and the doubt still looms large in the minds of the Revenue, which resulted into passing of the order by the Assessing Officer, allowing the deduction under section 80HHC of the Act as claimed by the assessee, which according to him was lawfully permitted.

In this regard see (i) Malabar Industrial Company v. CIT [2000] 243 ITR 83 (SC).
(ii) CIT v. Max India Ltd. [2007] 295 ITR 282 (SC).

18. In view of the aforesaid settled legal position, we are of the considered opinion that the Commissioner of Income-tax committed a grave error in invoking the jurisdiction conferred on him under section 263 of the Act. Thus the said question (1) is answered in favour of the assessee and against the Revenue."

7.22 Again the Hon'ble High Court of Karnataka in the case of Commissioner of Income Tax v. Aztec Software Technology Ltd reported in (2020) 428 ITR 245had again reiterated the same & held as under-

"7. The aforesaid provision was considered by the Supreme Court in Malabar Industrial Co. Ltd. v. CIT 243 ITR 43 SC and it was held that the phrase 'prejudicial to the interests of the revenue' has to be read in conjunction with an erroneous order passed by the Assessing Officer and every loss of revenue as a consequence of the order of the Assessing Officer cannot be treated as prejudicial to the interest of revenue. It was further held that where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, the order passed by the Assessing Officer cannot be treated as erroneous order prejudicial to the interest of the revenue. The principles laid down in the aforesaid decision were reiterated by the Supreme Court in 'CIT v. Max India Ltd.' 295 ITR 282 (SC) and recently in 'Ultratech Cement Ltd. and ORS. v. State of Rajasthan and ORS.' [CIVIL APPEAL No. 2773/2020 decided on 17-7-2020].

8. In view of aforesaid enunciation of law, the facts of the case may be seen. The assessee is engaged in the business of computer software development and services. The expenditure incurred in foreign currency on traveling, professional charges and onsite service charges are for development of software at clients site outside India, the assessee has neither rendered any technical services nor has earned any receipt from rendering technical services. Therefore, there is no need to exclude the expenditure incurred in foreign currency from the export turnover. [SEE: 'Patani

Telecom (P.) Ltd. v. ITO' [2008] 22 SOT 26 (Hyd.) and 'Chancepond Technologies (O) Ltd. v. Asst. CIT' [2008] 22 SOT 220 (Chennai)]. Thus, the view taken by the Assessing Officer was a plausible view and the view taken by him cannot be said to be erroneous. Therefore, in view of well settled legal position, invocation of powers in the fact situation of the case under section 263 of the Act could not have been held to be justified. The Tribunal has therefore, rightly set aside the order passed by the Commissioner of Income-tax (Appeals).
In view of preceding analysis, substantial questions of law framed by this court are answered against the revenue and in favour of the assessee."

7.23 Further, the Apex court in the case of Commissioner of Income-tax (Central) , Ludhiana v. Max India Ltd reported in (2007) 295 ITR 282 again reiterated that where two views are possible and the Income-tax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the revenue, unless the view taken by the Income-tax Officer is unsustainable in law. The relevant Para are reproduced as under:-
"2. At this stage we may clarify that under para 10 of the judgment in the case of Malabar Industrial Co. Ltd. (supra) this Court has taken the view that the phrase "prejudicial to the interest of the revenue" under section 263 has to be read in conjunction with the expression "erroneous" order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interest of the revenue. For example, when the Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of revenue; or where two views are possible and the Incometax Officer has taken one view with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the revenue, unless the view taken by the Income-tax Officer is unsustainable in law.----------"

7.24 In view of the above discussion & respectfully following the decisions of the Hon'ble jurisdictional High Court as well as Hon'ble Supreme Court, we held that the assessment order dated 05/09/2022 passed by the assessing officer is neither erroneous nor prejudicial to the interest of the revenue and accordingly we annul the order passed by the ld. PCIT u/s 263 of the Act.

8. In the result the appeal filed by the assessee is allowed."

7.2 In view of the above discussion & respectfully following the above decision of the co-ordinate bench of this Tribunal, we held that the AO after making inquiries /verification had taken a plausible view which is also not unsustainable & therefore the assessment order dated 26/09/2022 passed by the assessing officer is neither erroneous nor prejudicial to the interest of the revenue and

accordingly we annul the order passed by the ld. PCIT u/s 263 of the Act.

8. In the result the appeal filed by the assessee is allowed.

Order pronounced in the open court on 30th Jan, 2026

Sd/-	**Sd/-**
(Prashant Maharishi)	**(Keshav Dubey)**
Vice President	**Judicial Member**

Bangalore,
Dated 30th Jan,2026
VG/SPS
Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5 Guard file

By order

Asst. Registrar,
ITAT, Bangalore.