



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos. 2227 & 2228/PUN/2025

निर्धारण वर्ष / Assessment Years: 2015-16 & 2016-17

Mahaveer Nagari Sahakari Patpedhi Limited, New Plot Area, Tilak Road, Amalner – 425401.	V s	The Income Tax Officer, Ward-1(4), Jalgaon.
PAN: AABTM3128J		
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Vinay Kawadia (through virtual)
Revenue by	Shri Ajitesh Kumar Meena – Addl.CIT
Date of hearing	29/01/2026
Date of pronouncement	30/01/2026

आदेश/ ORDER

PER BENCH :

These are two appeals filed by the Assessee against the separate orders of Id. Commissioner of Income Tax (Appeal) [NFAC], passed under section 250 of the Income Tax Act, 1961 for the A.Y. 2015-16 & A.Y. 2016-17 both dated 21.03.2025 emanating from the Assessment Order passed under section 147 r.w.s. 144 read with section 144B of the Act, both dated 22.02.2024. For the sake of convenience, these two appeals were heard together and are being



disposed of by this common order. We treat appeal in ITA No.2228/PUN/2025 as lead appeal. The Assessee has raised the following grounds of appeal :

“1) On the facts and in the circumstances of the case and in law, assessment made in respect of an issue that was not disclosed in notice issued u/s 148A(b) is bad in law and liable to be quashed.

2) On the facts and circumstances of the case and in law the learned CIT(A), NFAC has erred in confirming the addition of Rs. 5,62,705/- made by AO by disallowing the deduction u/s 80P in respect of interest income earned form deposits with other co-operative Banks.

3) On the facts and circumstances of the case and in law, the learned CIT(A),NFAC has erred in not appreciating the fact that the appellant Co-operative society is an eligible person under the provisions of IT Act, 1961 to claim deduction under s 80P(2) on merit and the same should not be disallowed merely because of the fact that the ITR for the relevant assessment year is not filed within time allowed u/s 139(1). Hence no disallowance was warranted on the fact of the case.

4) On the facts and circumstances of the case and in law, the learned CIT(A) has erred in confirming the disallowance of deduction u/s 80P by placing reliance on the decision of Hon'ble SC in Totgars Co-Operative Sale Society Ltd. v. ITO [2010] 322 ITR 283/188 Taxman 282 (SC), facts of which are not applicable to the instant case

5) The appellant craves the permission to add, amend, modify, alter, revise, substitute, delete any or all grounds of appeal, if deemed necessary at the time of hearing of the appeal.”



Findings & Analysis :

2. We have heard both the parties and perused the records.

Basic Facts of the case :

2.1 In this case, Assessee is a Co-operative Credit Society duly registered under Maharashtra Co-operative Societies Act. It is engaged in business of providing credit facilities to its members. Assessee filed Return of Income in response to notice u/s.148 of the Act, on 03.01.2024 declaring income at Rs.NIL after claiming deduction u/s.80P of Rs.5,32,158/-. The society is registered under Maharashtra State co-operative Society Act on 21.08.1992. Copy of the certificate has been filed by the Id.AR in the paper book at page no.27. The main object of the Assessee Society is to accept deposits from members and provide loans and other banking services to its members.

3. In this case, Assessee has received interest income of Rs.5,62,705/- from Jalgaon Janta Sahakari Bank Limited. Ld.AR submitted that it is a Co-operative Bank. The Assessing Officer held that interest of Rs.5,62,705/- is to be taxed income from other sources and accordingly made addition of Rs.5,62,705/-. Assessing Officer also held that since assessee has earned interest income from



Co-operative Bank, Assessee is not eligible for deduction u/s.80P(2)(a)(i) and 80P(2)(d) of the Act. However, Assessing Officer has specifically mentioned in the order that Assessee had claimed deduction u/s.80P(2)(a)(i) of the Act. The Assessing Officer relied on Hon'ble Supreme Court's decision of Totagar's Co-operative Sales Society Ltd., 322 ITR 283. Aggrieved by the order of the Assessing Officer, Assessee filed appeal before the Id.CIT(A) who confirmed the addition. However, Id.CIT(A) also stated as under:

“c) Further, it is important to mention here that as the appellant has not filed Valid ITR u/s 139(1) of the Act, hence, the deduction is not allowable to the appellant. As per the provision of section 143(1)(a)(v) of the Act, no deduction under chapter VIA is allowable if the return of income is furnished beyond the due date specified under sub-section (1) of section 139 of the Act.”

4. Aggrieved by the same, Assessee filed appeal before this Tribunal.

5. It is an admitted position that Assessee is a Credit Co-operative Society. It is also admitted position that Assessee had claimed deduction u/s.80P(2)(a)(i) of the Act. Assessee has earned interest income of Rs.5,62,705/- from Jalgaon Janata Sahakari Bank, which is a Co-operative Bank.



6. Now, the issue before us is whether assessee is eligible for deduction under section 80P(2)(a) of the Act or not!

6.1 The Hon'ble High Court of Andhra Pradesh and Telangana in the case of Vavveru Co-operative Rural Bank Ltd. [2017] 396 ITR 371 analysed the provisions of Section 80P, succinctly distinguished the decision of Hon'ble Supreme Court in the case of Totagars Cooperative Sale Society, and held as under :

Quote, "8. Therefore, the real controversy arising in these writ petitions is as to whether the income derived by the petitioners by way of interest on the fixed deposits made by them with the banks, is to be treated as profits and gains of business attributable to any one of the activities indicated in sub-clauses (i) to (vii) of clause (a) of sub-section (2) of section 80P or not.

9. While the petitioners place strong reliance upon a decision of the Division Bench of this court in CIT v. Andhra Pradesh State Co-operative Bank Ltd. [2011] 12 taxmann.com 66/200 Taxman 200/336 ITR 516, the Revenue places strong reliance upon the decision of the Supreme Court in Totgar's Co-operative Sale Society Ltd. v. ITO [2010] 188 Taxman 282/322 ITR 283.

.....

34. The case before the Supreme Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) was in respect of a co-operative credit society, which was also marketing the agricultural produce of its members. As seen from the facts disclosed in the decision of the Karnataka High Court in Totgars, from out of which the decision of the Supreme Court arose, the assessee was carrying on the business of



marketing agricultural produce of the members of the society. It is also found from paragraph-3 of the decision of the Karnataka High Court in Totgar's Co-operative Sale Society Ltd.'s case (supra) that the business activity other than marketing of the agricultural produce actually resulted in net loss to the society. Therefore, it appears that the assessee in Totgars was carrying on some of the activities listed in clause (a) along with other activities. This is perhaps the reason that the assessee did not pay to its members the proceeds of the sale of their produce, but invested the same in banks. As a consequence, the investments were shown as liabilities, as they represented the money belonging to the members. The income derived from the investments made by retaining the monies belonging to the members cannot certainly be termed as profits and gains of business. This is why Totgar's struck a different note.

35. But, as rightly contended by the learned senior counsel for the petitioners, the investment made by the petitioners in fixed deposits in nationalised banks, were of their own monies. If the petitioners had invested those amounts in fixed deposits in other co-operative societies or in the construction of godowns and warehouses, the respondents would have granted the benefit of deduction under clause (d) or (e), as the case may be.

36. The original source of the investments made by the petitioners in nationalised banks is admittedly the income that the petitioners derived from the activities listed in sub-clauses (i) to (vii) of clause (a). The character of such income may not be lost, especially when the statute uses the expression "attributable to" and not any one of the two expressions, namely, "derived from" or "directly attributable to".

37. Therefore, we are of the considered view that the petitioners are entitled to succeed. Hence, the writ petitions are allowed, and the order



of the Assessing Officer, in so far as it relates to treating the interest income as something not allowable as a deduction under section 80P(2)(a), is set aside.”Unquote.

6.2 Thus, the Hon’ble High Court of AP & TS held that Interest Income earned by investing Income derived from Business of providing credit facilities, Loans by a Co-Operative Society was eligible for deduction u/sec.80P(2)(a) of the Act.

7. In the case of Sahyadri Co-operative Credit Society Limited, the Sahyadri Co-operative Credit Society had deposited excess funds in the Banks or Institutions permitted by the Co-operative Societies Act. In that context, the Hon’ble Kerala High Court in the case of Pr.CIT Vs. Sahyadri Co-operative Credit Society Ltd., [2024] 301 Taxman 36 (Kerala) vide order dated 04.09.2024 has held as under :

Quote “7. On a consideration of the rival submissions, we are of the view that for the reasons stated hereinafter, the question of law that arises for consideration before us must be answered against the Revenue and in favour of the assessee. The permissible deduction that is envisaged under Section 80P(2) of the I.T. Act for a Co-operative Society that is assessed to tax under the head of 'Profits and Gains of Business or Profession' is of the whole of the amount of profits and gains of business attributable to any one or more of its activities. Thus, all amounts as can be attributable to the conduct of the specified businesses by a Co-operative Society will be eligible for the deduction



envisaged under the statutory provision. The question that arises therefore is whether, merely because the assessee chooses to deposit its surplus profit in a permitted bank or financial institution, and earns interest on such deposits, such interest would cease to form part of its profits and gains attributable to its business of providing credit facilities to its members? In our view that question must be answered in the negative, since we cannot accept the contention of the Revenue that the interest earned on those deposits loses its character as profits/gains attributable to the main business of the assessee. It is not as though the assessee in the instant case had used the surplus amount [the profit earned by it] for an investment or activity that was unrelated to its main business, and earned additional income by way of interest or gain through such activity. The assessee had only deposited the profit earned by it in the manner mandated under Section 63 of the Multi-State Co-operative Societies Act, or permitted by Section 64 of the said Act. In other words, it dealt with the surplus profit in a manner envisaged under the regulatory Statute that regulated, and thereby legitimized, its business of providing credit facilities to its members. Under those circumstances, if the assessee managed to earn some additional income by way of interest on the deposits made, it could only be seen as an enhancement of the profits and gains that it made from its principal activity of providing credit facilities to its members. The nature and character of the principal income [profits earned by the assessee from its lending activity] does not change merely because the assessee acted



in a prudent manner by depositing that income in a bank, instead of keeping it in hand. The provisions of the I.T. Act cannot be seen as intended to discourage prudent financial conduct on the part of an assessee.” Unquote

7.1 Thus, Hon’ble Kerala High Court has held that the character of income does not change. The Hon’ble Kerala High Court held that interest earned from deposits in permitted banks will be eligible for deduction u/s.80P of the Act. The Hon’ble Kerala High Court’s decision is dated 04.09.2024 means, after the decision of Hon’ble Supreme Court in the case of Totagar’s Co-operative Sales Society Ltd.

7.2 Accordingly, we hold that assessee is eligible for deduction u/s.80P(2)(a)(i) of the Act, on the interest income earned by the assessee from Jalgaon Janata Sahakari Bank.

8. Ld.Departmental Representative(ld.DR) for the Revenue has not brought on record any contrary decision of the Hon’ble Jurisdictional High Court.

9. Ld.CIT(A) has confirmed the decision relying on Section 143(1)(a)(v) of the Act. In this case, order u/s.143(3) r.w.s 147 of



the Act, was passed. Also, the section 143(1)(a)(v) was not applicable for A.Y.2016-17 as it was introduced w.e.f. 01.04.2021.

9. Respectfully following the judicial precedent, we direct the Assessing Officer to allow deduction u/sec.80P(2)(a)(i) of the Act on the interest earned of Rs.5,62,705/-. Accordingly, Ground Nos.2, 3 and 4 raised by the assessee are allowed.

Ground No.1 :

10. In this case, Notice u/s.148 was issued on account of cash deposits in the bank account. Ld.AR has submitted copy of notice u/s.148A(b) of the Act, copy of order u/s.148A(d) of the Act. The said fact is also mentioned in the assessment order. Thus, it is a fact that case was reopened, because Assessing Officer had information regarding cash deposits by Assessee during the year. However, it is observed that Assessing Officer verified the issue of cash deposits and was satisfied with the explanation provided by the Assessee. Hence, Assessing Officer has not made any additions on account of cash deposits. Once Assessing Officer has not made any addition on the issue mentioned in the notice u/s.148, Assessing Officer is precluded from making addition on any other issue. This is the proposition of law laid down by Hon'ble Jurisdictional High Court



in the case of CIT Vs. Jet Airways (I) Ltd. [2010] 331 ITR 236 (Bom). Hon'ble Bombay High Court held as under :

Quote. "However, if after issuing a notice under section 148, he accepted the contention of the assessee and holds that the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income. If he intends to do so, a fresh notice under section 148 would be necessary, the legality of which would be tested in the event of a challenge by the assessee." Unquote

11. ITAT Pune Bench in the case of Shree Mahalaxmi Gramin Bigarsheti Sahakari Patsanstha Vs. ITO in ITA No.1605/PUN/2024, which was relied by ld.AR, has quashed the assessment order following the decision of Hon'ble Bombay High Court in the case of Jet Airways (I) Ltd. Accordingly, respectfully following the judicial precedence, assessment order for A.Y.2016-17 is quashed. Accordingly, Ground No.1 raised by the assessee is allowed.

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

ITA No.2227/PUN/2025 for A.Y.2015-16

13. In this case, Assessee's case was reopened as Assessing Officer had information regarding cash deposits by Assessee in Jalgaon Janata Sahakari Bank. Assessing Officer during the assessment proceedings verified the cash deposits and accepted



assessee's explanation regarding cash deposits. Therefore, Assessing Officer has not made any addition on account of cash deposits. However, in the assessment order, Assessing Officer treated interest of Rs.8,25,444/- as Income from Other Sources and added the said amount to the Returned Income. There was a loss of Rs.70,332/- in the Return of Income filed for A.Y.2015-16 on 03.01.2024. Since the Ground No.2 and Ground No.3, 4 and 5 are identical to the Grounds discussed in the lead appeal ITA No.2228/PUN/2025, the same decision shall apply *mutatis-mutandis* to this present appeal also. Accordingly, grounds of appeal raised by the Assessee in ITA No.2227/PUN/2025 are allowed.

14. To sum up, both appeals of the Assessee are allowed.

Order pronounced in the open Court on 30 January, 2026.

Sd/-

VINAY BHAMORE
JUDICIAL MEMBER

Sd/-

Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30 Jan, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary
आयकर अपीलिय अधिकरण, पुणे/ITAT, Pune.