



# आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "A" :: PUNE

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

आयकर अपील सं. / ITA Nos.2270 & 2271/PUN/2025

निर्धारण वर्ष / Assessment Year: 2018-19

The Income Tax Officer, Ward-2, Ahmednagar.	V s	Kanifnath Gramin Bigar Sheti Sahakaripatsanstha Maryadit, At Post Malad, Taluka Sangamner, Ahmednagar – 422608.
		PAN: AABAK1395E
Appellant/ Revenue		Respondent /Assessee

Assessee by	Shri Pramod S Shingte – AR
Revenue by	Smt Neha Thakkar (Virtual)
Date of hearing	19/01/2026
Date of pronouncement	21/01/2026

## आदेश/ ORDER

### PER BENCH :

These two appeals filed by the Revenue against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC],passed under section 250 of the Income Tax Act, 1961 for A.Y.2018-19dated 01.07.2025 emanating from the Assessment Order dated 30.03.2021 under section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 and order under section 250 of the Income



Tax Act, 1961 dated 01.07.2025 emanating from penalty order u/s.270A dated 12.01.2022 for A.Y.2018-19. The Revenue in ITA No.2270/PUN/2025 has raised the following grounds of appeal :

*“i) On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in deleting the addition of Rs.1,75,17,397- made on account of interest income, despite the fact that the deduction u/s 80P(2)(a)(i) is available only to the income which is attributable to the business operation of the assessee cooperative society which is providing credit facility to its members only and hence, the interest income earned by the assessee is not attributable to its business activities which is providing credit facility to its members only*

*ii) On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in deciding whether the earning interest income from deposits with Cooperative Banks or other Banks, than cooperative society falls within the ambit of business activity of the assessee society.*

*iii) On the facts and the circumstances of the case and in law, the Ld. CTT(A)/NFAC erred in not considering the provisions of section 80P(4) of the Act which clearly speaks that the provisions of section 80P shall not apply to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank*

*iv) On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in allowing the deduction u/s 80P(2)(d) of the Act without considering the decision of the Hon'ble High Court of Karnataka in the case of PCIT, Hubballi Vs. Totagars Co-operative Sale Society [395 ITR 611] dated 16.06.2017*



v) *The appellant craves to add, amend, alter or delete the above ground of appeal during the course of appellate proceedings before the Hon'ble Tribunal.*”

1.1 The Revenue in ITA No.2271/PUN/2025 has raised the following grounds of appeal :

“i) *On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in deleting the penalty of Rs.1,21,17,922/- considering the fact the quantum appeal is allowed in favour of the assessee by the Ld. CIT(A)/NFAC and without considering the merits of the case.*

ii) *On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC is not justified in deleting the penalty u/s 270A as the Department is in process of filing of appeal before the Hon'ble ITAT against the quantum appeal order passed on 01.07.2025 by the Ld. CIT(A)/NFAC*

iii) *The appellant craves to add, amend, alter or delete the above ground of appeal during the course of appellate proceedings before the Hon'ble Tribunal.*”

**Findings and Analysis :**

2. We have heard both the parties and perused the records. In this case, Assessee had filed Return of Income on 18.08.2018 declaring total income at Rs.NIL after claiming deduction u/s.80P(2)(a)(i) of Rs.42,23,177/-. Assessee is a Co-operative Credit Society, registered under Maharashtra Co-operative Societies Act.



Assessee's case was selected for scrutiny. The Assessing Officer observed that Assessee had claimed deduction u/s.80P(2)(a)(i) / 80P(2)(d) on interest income earned from following :

<i>Name</i>	<i>Interest Amount</i>
<i>B.T.Amrutvahini Sahakari Bank, Ghulewadi</i>	<i>43,06,981/-</i>
<i>The Baramati Sahakari Bank Ltd., Sangamner</i>	<i>38,48,183/-</i>
<i>Ashok Sahakari Bank, Sangamner</i>	<i>91,67,621/-</i>
<i>B.T.Amrutvahini Sahakari Bank, Talegaon</i>	<i>1,84,644/-</i>
<i>Saving Bank Interest -IDBI Bank, ADCC Bank, Amrutvahini Bank, Central Bank</i>	<i>9,968/-</i>
<b><i>Total</i></b>	<b><i>Rs.1,75,17,397/-</i></b>

2.1 The above table is appearing in Assessment Order.

3. The Assessing Officer(AO) held that Interest Income arising from Deposits/Investments of funds in Banks is in the nature of Income from Other Sources taxable u/s.56 of the Act. The AO held that such Interest is not attributable to the business of providing credit facilities to its members. Hence, Assessing Officer held that Assessee is not eligible for deduction u/s.80P(2)(a)(i) of the Act on the Interest Income. Assessing Officer(AO) also held that Co-Operative Banks are not Co-Operative Societies hence Interest



earned by assessee from deposits kept with Cooperative banks is not eligible for deduction u/s.80P(2)(d) of the Act. Assessing Officer held that Assessee is not eligible for deduction u/s.80P(2)(d) following the decision of Hon'ble Supreme Court in the case of PCIT Vs. Totagars Co-operative Sale Society. Accordingly, Assessing Officer made an addition of Rs.1,75,17,397/-.

3.1 During the Assessment proceedings the Assessee had submitted that as per RBI guidelines Assessee is required to keep certain funds in the Co-Operative Banks and other banks. Assessee submitted that such statutory deposits are done during the normal business of the assessee hence Interest is attributable to business of assessee. The said submission of the Assessee has been reproduced by the AO in the assessment order at page 5.

4. Aggrieved by the Assessment Order, Assessee filed appeal before the Id.CIT(A). The Ld.CIT(A) allowed the appeal of the Assessee.

5. Aggrieved by the order of Id.CIT(A), Revenue filed appeal before this Tribunal.



6. Ld.Departmental Representative(ld.DR) for the Revenue submitted that the Interest earned is not attributable to the business of the assessee of providing credit facility hence not eligible for deduction u/s.80P(2)(a) of the Act. Ld.DR also submitted that ld.CIT(A) has failed to consider the Section 80P(4) of the Act. Ld.DR submitted that deposits were kept with Co-operative Banks which are not cooperative societies, hence, 80P(2)(d) is also not allowable. Ld.DR relied on the decision of Hon'ble Supreme Court in the case of Totagars Cooperative Sale Society 395 ITR 611.

7. Ld.AR submitted that the Interest earned is during the business of providing credit facility hence it is attributable to business of the Assessee, Ld.AR relied on the decisions of ITAT Pune.

7.1 Thus, the Issue before us is whether the Interest of Rs.1,75,17,397/- is attributable to business of the Assessee and eligible for deduction u/s.80P(2)(a)(i) of the Act or not! Whether Cooperative Bank is Cooperative Society or not and whether Interest earned by Assessee form Cooperative Bank and other bank is eligible for deduction u/s 80P or not! Implications of section 80P(4) in this case.



8. We will discuss Judicial pronouncements on this issue.

8.1 The Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd.Vs. Commissioner of Income Tax, Calicut 431 ITR 1 (SC) dated 12.01.2021 held as under :

*“21. An analysis of this judgment would show that the question of law that was reflected in paragraph 5 of the judgment was answered in favour of the assessee. The following propositions may be culled out from the judgment:(I) That section 80P of the IT Act is a benevolent provision, which was enacted by Parliament in order to encourage and promote the growth of the co-operative sector generally in the economic life of the country and must, therefore, be read liberally and in favour of the assessee;(II) That once the assessee is entitled to avail of deduction, the entire amount of profits and gains of business that are attributable to any one or more activities mentioned in sub-section (2) of section 80P must be given by way of deduction;(III) That this Court in Kerala State Cooperative Marketing Federation Ltd. (supra) has construed section 80P widely and liberally, holding that if a society were to avail of several heads of deduction, and if it fell within any one head of deduction, it would be free from tax notwithstanding that the conditions of another head of deduction are not satisfied;(IV) This is for the reason that when the legislature wanted to restrict the deduction to a particular type of co-operative society, such as is evident from section 80P(2)(b) qua milk co-operative societies, the legislature expressly says so - which is not the case with section 80P(2)(a)(i);(V) That section 80P(4) is in the nature of a proviso to the main provision contained in section 80P(1) and (2). This proviso specifically excludes only co-operative banks, which are cooperative societies who must possess a licence from*



*the RBI to do banking business. Given the fact that the assessee in that case was not so licenced, the assessee would not fall within the mischief of section 80P(4).*

.....

*“We now turn to the proper interpretation of section 80P of the Income-tax Act. Firstly, the marginal note to section 80P which reads "Deduction in respect of income of co-operative societies" is important, in that it indicates the general "drift" of the provision. This was so held by this Court in K.P. Varghese v. ITO [1981] 7 Taxman 13/131 ITR 597 as follows:*

*"9. This interpretation of sub-section (2) is strongly supported by the marginal note to Section 52 which reads "Consideration for transfer in cases of understatement". It is undoubtedly true that the marginal note to a section cannot be referred to for the purpose of construing the section but it can certainly be relied upon as indicating the drift of the section or, to use the words of Collins, M.R. in Bushel v. Hammond [1904] 2 KB 563 to show what the section is dealing with. It cannot control the interpretation of the words of a section particularly when the language of the section is clear and unambiguous but, being part of the statute, it prima facie furnishes some clue as to the meaning and purpose of the section (vide Bengal Immunity Company Limited v. State of Bihar [1955] 2 SCR 603)."*

*28. Secondly, for purposes of eligibility for deduction, the assessee must be a "co-operative society". A co-operative society is defined in Section 2(19) of the IT Act, as being a co-operative society registered either under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies. This, therefore, refers only to the factum of a co-operative society being registered under the 1912 Act or under the State*



*law. For purposes of eligibility, it is unnecessary to probe any further as to whether the co-operative society is classified as X or Y.*

*29. Thirdly, the gross total income must include income that is referred to in sub-section (2).*

*30. Fourthly, sub-clause (2)(a)(i) with which we are directly concerned, then speaks of a co-operative society being "engaged in" carrying on the business of banking or providing credit facilities to its members. What is important qua sub-clause (2)(a)(i) is the fact that the co-operative society must be "engaged in" the providing credit facilities to its members.*

.....

*“Once it is clear that the co-operative society in question is providing credit facilities to its members, the fact that it is providing credit facilities to non-members does not disentitle the society in question from availing of the deduction. The distinction between eligibility for deduction and attributability of amount of profits and gains to an activity is a real one.”*

8.2 Hon’ble Supreme Court in the case of CIT vs Karnataka State Co-operative Apex bank [2001] 251 ITR 194 (SC) observed as under :

*Quote, “The question in appeal reads : "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the interest income arising from the investment made out of reserve fund is exempt under section 80P(2)(a)(i) of the Income-tax Act, 1961?" Unquote.*



8.2.1 While deciding the above question of Law raised by Revenue, the Hon'ble Supreme Court observed as under :

*Quote, “.....There is no doubt, and it is not disputed, that the assessee-co-operative bank is required to place a part of its funds with the State Bank or the Reserve Bank of India to enable it to carry on its banking business. This being so, any income derived from funds so placed arises from the business carried on by it and the assessee has not, by reason of section 80P(2)(a)(i), to pay income-tax thereon. The placement of such funds being imperative for the purposes of carrying on the banking business, the income derived therefrom would be income from the assessee's business.....” Unquote.*

8.3 The Hon'ble Supreme Court in the above case answered the question in favour of Assessee and against Revenue.

8.4 Thus, the proposition of law emanating from the above decision is that Interest earned from Funds deposited with State bank of India by Co-Operative Bank is business income and eligible for deduction u/s 80P(2)(a) of the Act.

8.5 The Hon'ble Bombay High Court in the case of PCIT Vs. M/s.Annasaheb Patil Mathadi Kamgar Sahakari Pathpedhi Ltd. in Income Tax Appeal No.933 of 2017 vide order dated 14 October



2019 dismissed the appeal of the revenue on the following questions of law raised by the Revenue :

*The Revenue urges the following two questions of law for our consideration : (a) Whether on the facts and circumstances of the case and in law, the Tribunal is correct in holding that assessee is entitled to deduction u/s 80P(2)(a) and (d) of the IT Act, 1961*

*(b) Whether on the facts and circumstances of the case and in law, the Tribunal is right to allow the relief to the assessee by holding that the assessee being Co-operative Credit Society is not a Co-operative Bank hence entitled for deduction u/s 80P(4) of the I.T. Act despite the fact that the assessee is carrying on the banking business and has been categorized as Co-operative Bank / other Bank ?*

8.6 The Revenue filed SLP before Hon'ble Supreme Court in the case of Annasaheb Patil Mathadi Kamgar Sahakari Pathpedhi Ltd. Hon'ble Supreme Court in the case of PCIT Vs. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedhi Ltd / [2023] 454 ITR 117 (SC) (SUPP.) [20-04-2023] held as under :

*Quote, "1. Feeling aggrieved and dissatisfied with the impugned order dated 14-10-2019 passed by the High Court of Judicature at Bombay in ITA No. 933/2017, by which the High Court has dismissed the said appeal preferred by the Revenue, relying upon its earlier decision in the case of Quepem Urban Co-operative Credit Society Ltd. v. Asstt. CIT [2015] 58 taxmann.com 113/232 Taxman 510/377 ITR 272 ( Bom .), the Revenue has preferred the present appeal. 2. The High Court considered the following question of law*



*"Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified as claimed by the assessee on the ground that the assessee, a co-operative credit society and is not a bank for the purpose of Section 80P(4) of the Act?"*

*3. Apart from the fact that against the relied upon decision in the case of M/s. Quepem Urban Co-operative Credit Society Ltd. (supra), the Special Leave Petition has been dismissed, having heard learned counsel appearing on behalf of the respective parties, the issue involved in the present appeal is squarely covered against the Revenue in view of the decision of this Court in Mavilayi Service Co-operative Bank Ltd. v. CIT [2021] 123 taxmann.com 161/279 Taxman 75/431 ITR 1/[2021] 7 SCC 90. This Court, in the aforesaid decision has specifically observed and held that primary Agricultural Credit Societies cannot be termed as Co operative Banks under the Banking Regulation Act and, therefore, such credit societies shall be entitled to exemption under section 80(P)(2) of the Income-tax Act, 1961.*

*4. Ms. Aakansha Kaul, learned counsel appearing on behalf of the appellant/Revenue has tried to submit that the respondent/Assessee will fall under the definition of Co-operative Bank as their activity is to give credit/loan. However, it is required to be noted that merely giving credit to its members only cannot be said to be the Co-operative Banks/Banks under the Banking Regulation Act. The banking activities under the Banking Regulation Act are altogether different activities. There is a vast difference between the credit societies giving credit to their own members only and the Banks providing banking services including the credit to the public at large also.*

*5. There are concurrent findings recorded by CITA, ITAT and the High Court that the respondent/Assessee cannot be termed as*



*Banks/Cooperative Banks and that being a credit society, they are entitled to exemption under section 80(P)(2) of the Income-tax Act. Such finding of fact is not required to be interfered with by this Court in exercise of powers under Article 136 of the Constitution of India. Even otherwise, on merits also and taking into consideration the CBDT Circulars and even the definition of Bank under the Banking Regulation Act, the respondent/Assessee cannot be said to be Co-operative Bank/Bank and, therefore, Section 80(P)(4) shall not be applicable and that the respondent/Assessee shall be entitled to exemption/benefit under section 80(P)(2) of the Income-tax Act.*

*6. In view of the above and for the reasons stated hereinabove, the present appeal deserves to be dismissed and is accordingly dismissed, answering the question against the Revenue and in favour of the Assessee.*

*7. The Appeal is accordingly dismissed. No costs. \*In favour of assessee. ” Unquote.*

8.7 Thus, in the above case, the Hon'ble Supreme Court categorically held that Annasaheb Patil Mathadi Kamgar Sahakari Pathpedhi cannot be treated as a Bank and hence Section 80P(4) will not be applicable and it will be entitled for exemption u/s 80P(2) of the Act.

8.8 Thus, the issue is settled now that a cooperative society registered under a state cooperative society Act or Central Cooperative Society Act will not be considered as Bank unless it has



received Banking License from RBI. Section 80P(4) shall not be applicable to Such Cooperative Credit Societies and such Cooperative Credit Societies will be entitled for deduction u/s 80P(2)(a) of the Act. When we read the above proposition of law laid down by Hon'ble Supreme Court along with the proposition of law laid down by Hon'ble Supreme Court in the case of CIT vs Karnataka State Co-operative Apex bank (supra) , the proposition of law emanating is that Interest earned by depositing Funds with banks by such Co-operative Credit Societies will be Business Income and will be eligible for deduction u/s 80P(2)(a) of the Act.

9. Same proposition of Law has been laid down by 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 Totagar 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.*

9.1 Thus, Hon'ble High Court of AP &TS held that Interest Income earned by investing Income derived from Business and Profession by a Co-Operative Society was eligible for deduction u/s.80P(2)(a) of the Act.



10. 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*

11. What emerges from the above referred decisions of Hon’ble Supreme Court and Hon’ble High Courts is that Interest earned by Cooperative Credit Society registered under state cooperative society Act, which is engaged in the business of providing credit facilities to its members, from funds deposited with Cooperative Bank or Bank is eligible for deduction u/s.80P(2)(a) (i) of the Act.

12. Similar view has been taken by ITAT Pune Bench in the case of ITO Vs. Dhanshri Multi State Cooperative Society Ltd., in ITA



No.463/PUN/2024, Arth Nagari Sahakari Patsanstha Limited Vs.  
ITO Arth Nagari Sahakari Patsanstha.

12.1 Thus, whether a Co-operative Credit Society is eligible for deduction u/s.80P(2)(a)(i) on the interest income earned from Co-operative Banks and other banks is decided in favour of assessee. Therefore, respectfully following Hon'ble Supreme Court and Hon'ble AP & TS High Court and Hon'ble Kerala High Court, we hold that Assessee is eligible for deduction u/s.80P(2)(a)(i) of the Act, on the interest earned on Co-operative Banks and Other Banks. Accordingly, Grounds of appeal raised by the Revenue are dismissed.

13. Ground No.IV of the Revenue is as under :

*“iv) On the facts and the circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in allowing the deduction u/s 80P(2)(d) of the Act without considering the decision of the Hon'ble High Court of Karnataka in the case of PCIT, Hubballi Vs. Totagars Co-operative Sale Society [395 ITR 611] dated 16.06.2017.”*

13.1 Revenue has stated in the ground that ld.CIT(A) has not considered the decision of Hon'ble High Court of Karnataka in the case of Totagars Co-operative Sale Society.



14. The facts mentioned by Hon'ble Karnataka High Court in the case of PCIT Vs. Totagars Co-operative Sale Society 395 ITR 611 order dated 16.10.2017 are as under :

*“10. Admittedly and undoubtedly, the respondent assessee is a Co-operative Society engaged mainly in the activity of marketing of agricultural produces grown by its members. The assessee co-operative society also accepts deposits from its members and provides credit facility to its members, runs Kirana Stores, rice mills, live stocks, van section, medical shops, Areca-nut trading section, lodging, plying and hiring of goods carriage, etc.*

*11. The Assessment Years involved in the present batch of appeals are Assessment Years 2007-2008 to 2011-2012. The bone of contention is that the deduction under Section 80P(2) of the Act is now claimed by the respondent assessee under Section 80P(2)(d) of the Act and not under Section 80P(2)(a) of the Act. The reason is that now the investments and deposits after the Supreme Court's decision against the assessee Totgar's Co-operative Sale Society Ltd. (supra), the assessee has shifted the deposits and investments from Schedule Banks to Co-operative Bank and such Co-operative Bank is essentially a Co-operative Society also and Clause (d) allows deduction of income by way of interest or dividends derived by the assessee Co-operative Society from its investments with any other Co-operative Society.*

15. In these facts which Hon'ble Karnataka High Court has mentioned in Para 10 and 11 above, Hon'ble Karnataka High Court decided the issued in para 23 as under :



*“23. Thus, the aforesaid judgments supports the view taken by this Court that character of income depends upon the nature of activity for earning that income and though on the face of it, the same may appear to befalling in any of the specified Clauses of Section 80P(2) of the Act, but on a deeper analysis of the facts, it may become ineligible for deduction under Section 80P(2) of the Act. The case in Udaipur Sahakari Upbhokta ThokBhandar Ltd. (supra) was that of Section 80P(2)(e) of the Act, whereas in the present case, it is under Section 80P(2)(d) of the Act. Hence, the income by way of interest earned by deposit or investment of idle or surplus funds does not change its character irrespective of the fact whether such income of interest is earned from a schedule bank or a co-operative bank and thus, clause (d) of Section 80P(2) of the Act would not apply in the facts and circumstances of the present case. The person or body corporate from which such interest income is received will not change its character, viz. interest income not arising from its business operations, which made it ineligible for deduction under Section 80P of the Act, as held by the Hon'ble Supreme Court. Unquote.*

16. The proposition of law emanating from above decision is that Character of Income depends upon the nature of activity. The Character of Interest will not change depending on the body corporate or person from whom interest is received. In the case of Totagar's Co-operative Sale Society in para 10, it is specifically mentioned that Totagar's Cooperative Sale Society is engaged in the business of marketing of agricultural produce of its members,



Areca-nut trading section, lodging, plying and hiring of goods-carriage, etc.

17. Since in the case of Totagars Cooperative Sales Society(supra), it has been held that interest income is not arising from business of providing credit facility, which made it ineligible for deduction u/s.80P of the Act. In the case of Totagars Co-operative Sale Society Ltd., Vs. ITO, Karnataka [2010] 322 ITR 283(SC)vide order dated 08.02.2010, Hon'ble Supreme Court noted that fact that Assessee markets the agricultural produce of its members and retains the sale proceeds for some time. This sale proceeds pertaining to sale of agricultural produce was invested for a short period in fixed deposits. The dispute was regarding the interest accrued on said fixed deposits which were pertaining to sale proceeds of agricultural produce payable to members but retained for some time by the Society. In this context, Hon'ble Supreme Court held that the Totagars Co-operative Sale Society Ltd., is not eligible for deduction u/s.80(2)(a)(i) of the Act.

18. In the case of the Assessee, it is an admitted fact that Assessee is a Co-operative Credit Society. Its business consists of providing



credit facilities to its members. It has been submitted by Assessee that before Assessing Officer and Id.CIT(A) that as per the Maharashtra Co-operative Society Act and Reserve Bank of India Guidelines, Assessee has to maintain certain fixed deposits. Therefore, in these facts and circumstances of the case, the interest earned by assessee on the fixed deposits is business income and hence, eligible for deduction u/s.80P(2)(a)(i) of the Act. Therefore, we do not find any merit in the Revenue's Ground No.IV. Accordingly, Ground No.IV is dismissed.

19. In the result, Revenue's Appeal is dismissed.

**ITA No.2271/PUN/2025 for A.Y.2018-19 (Penalty Appeal )**

20. Assessing Officer had disallowed assessee's claim for deduction u/s.80P(2)(a)(i) and made an addition of Rs.1,75,15,397/- in the assessment order for A.Y.2018-19 vide order dated 30.03.2021. Assessing Officer had also initiated penalty u/s.270A of the Act. Vide order dated 12.01.2022, Assessing Officer levied penalty u/s.270A of the Act, of Rs.1,21,17,922/- on account of under reporting.



21. Since, in ITA No.2270/PUN/2025 for A.Y.2018-19 decided above, we have dismissed the quantum appeal of the Revenue, therefore, there are no legs for the penalty to stand. Accordingly, we direct the Assessing Officer to delete the penalty. Accordingly, Ground of appeal raised by the Revenue are dismissed.

22. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 21 January, 2026.

**Sd/-**  
**VINAY BHAMORE**  
**JUDICIAL MEMBER**

**Sd/-**  
**Dr.DIPAK P. RIPOTE**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 21 Jan, 2026/ 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, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

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