

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.959/PUN/2025
निर्धारण वर्ष / Assessment Year : 2020-21

Girnai Nagari Sahakari Path Sanstha Ltd., Pachora Central, Shop No. G 4, 5, F 6, 8 S. No. 3158/2, C/O Shri Satish Parashram Shinde, Bhadgaon Road, At Post-Pachora, Dist.-Jalgaon-424201 PAN : AAAAG2413Q	Vs.	PCIT 1-1, Nashik
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Nikhil S. Pathak
Department by :	Shri Amol Khairnar
Date of hearing :	16-12-2025
Date of Pronouncement :	05-02-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 27.02.2025 of the Ld. Principal Commissioner of Income Tax, Pune-3 (**“PCIT”**) passed u/s 263 of the Income Tax Act, 1961 (**the “Act”**) pertaining to Assessment Year (**“AY”**) 2020-21.

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

“On facts and in law,

- 1] *The learned Pr. CIT erred in revising the asst. order passed by the learned A.O. on the ground that the said order was erroneous and prejudicial to the interest of the revenue.*
- 2] *The learned Pr. CIT erred in directing the A.O. to verify as to whether the interest earned by the assessee on the fixed deposits with co-operative banks and Nationalised Banks was eligible for deduction u/s 80P(2)(a) of the Act.*
- 3] *The learned Pr. CIT erred in further directing the A.O. to examine whether the assessee was eligible for deduction u/s 80P(2)(d) of the Act.*

- 4] *The learned Pr. CIT further erred in directing the A.O. to examine the issue of in respect of unclaimed dividend of Rs.87,864/-.*
- 5] *The learned Pr. CIT failed to appreciate that the asst. order passed by the learned A.O. was neither erroneous nor prejudicial to the interest of the revenue and therefore, there was no reason to set aside the asst. order to the file of the A.O.*
- 6] *The learned Pr. CIT erred in not appreciating that the assessee was eligible for deduction u/s 80P(2)(a) in respect of the interest income earned by it on the fixed deposits with Nationalised Bank and Co-operative Banks and therefore, there was no reason to set aside the asst. order on the said issue.*
- 7] *The learned Pr. CIT failed to appreciate that the assessee was also eligible for deduction u/s 80P(2)(d) in respect of the interest income received from Co-operative banks and therefore, there was no reason to set aside the asst. order on the said issue.*
- 8] *The learned Pr. CIT erred in not appreciating that the issues relating to interest income earned by the assessee from Nationalised Banks and Co-operative Banks was verified during the asst. proceedings and therefore, there was no reason to set aside the case of the assessee.*
- 9] *The learned Pr. CIT erred in not appreciating that two opinions are certainly possible and hence, question of setting aside the asst. order for verification of the interest issue simply did not arise.*
- 10] *The learned Pr. CIT erred in not appreciating that the unclaimed dividend could not be treated as an income of the assessee and hence, there was no reason to set aside the asst. order on that ground.*
- 11] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.*

3. Briefly stated, the facts of the case are that the assessee is a Co-operative Society. For AY 2020-21, the assessee filed its return of income on 25.01.2021 declaring a total income of Rs.1,52,470/- after claiming deduction u/s 80P of the Income Tax Act, 1961 (**the “Act”**) under Chapter VI-A amounting to Rs.28,79,145/-. Subsequently, the case of the assessee was selected for scrutiny under CASS for verification of “deduction under Chapter VI-A”. Accordingly, statutory notice(s) u/s 143(2) and 142(1) of the Act were issued and served upon the assessee. In response thereto, the assessee furnished the requisite details/documents from time to time. The Ld. Assessing Officer (**“AO”**) after verification of the details/documents furnished by the assessee and perusal of the submissions made by the assessee, accepted the income returned by the assessee thereby allowing the deduction u/s 80P of the Act vide his order dated 12.09.2022 passed u/s 143(3) r.w.s. 144B of the Act.

4. Thereafter, the Ld. PCIT invoked the provisions of section 263 of the Act. On perusal of the assessment record, the Ld. PCIT noted that the assessee has

deposited excess fund in Co-operative bank and earned interest from it which does not constitute the assessee's operational income and therefore deduction u/s 80P(2) of the Act in respect of the interest received from Co-operative Banks and Nationalized Banks amounting to Rs.1,06,38,621/- needs to be disallowed and added u/s 56 of the Act as income from other sources. The Ld. PCIT further noted that the assessee society has considered unclaimed dividend of Rs.87,864/- which has been credited to General Reserve Account /Share Capital Account as a capital receipt. However, the same is in the nature of revenue receipts as distribution of profits are intended for shareholders and thus, the said unclaimed dividend of Rs.87,864/- is required to be added to the total income of the assessee. The Ld. PCIT was thus of the opinion that the assessment order passed u/s 143(3) r.w.s. 144B of the Act dated 12.09.2022 by the Ld. AO is erroneous in so far as it is prejudicial to the interest of the Revenue. According to him the assessment has been completed by the Ld. AO without making enquiries or verification which should have been made. A show cause notice was thus issued to the assessee on 30.01.2025 through e-proceedings calling for its submissions on the above issues. In response to the said show cause notice, the assessee submitted its written submissions on 17.02.2025, the relevant portion of which is reproduced in para 5 of the Ld. PCIT's order which reads as under :

"05. In response to show cause notice, the assessee society has furnished the written submission dated 17.02.2025 through e-mail as well as through ITBA Portal on 17.02.2025. The relevant portion of the submission of the assessee is as under:

".....

At pars 3 of the order, the Assessment Unit, observed as under

"The assessee has furnished all relevant documents/details called for in response to the issue raised The assesses a cooperative society in the activity of providing credit facilities to its members The claim of deduction u/s 80P verified with statement of total income and details furnished by the assessee"

5] The above referred information/documents furnished were examined and verified by Assessment Unit, Verification Unit, A Technical Unit and A Review Unit

6] Sir, as regards your proposal of revision to tax gross interest earned from making investment with Cooperative banks at Rs10638621 by denying deduction claimed u/s 80P(2)(d) of the Act

We humbly submit as under

6.1] At the outset let We clear that the sum of Rs. 10638621 represent gross interest received on FDRS/saving bank account held with various Cooperative banks

It does not include interest received from nationalised banks

6.2] Ours is a Cooperative Society, registered under the provisions of Maharashtra Cooperative Societies Act, 1960. Our main object is of providing credit facilities to members For this purpose. We not only used our own share capital, reserves and surplus but also used deposit taken from members as well as loan taken from banks It carries interest burden.

6.3) According to bye law of our society, a copy of which is enclosed herewith, We required to make deposits with Cooperative banks/nationalised bank to maintain Cash Reserve Ratio (CRR) It has to be kept at minimum of 1% of total deposits as per preceding quarter We have also certain limitation to keep maximum cash in hand Further, We are bound to keep Statutory Liquidity Ratio (SLR) at minimum 20% of total deposit as per preceding quarter. Sub clause (1)(2)& (3) of main clause 52 of our bye-law provides for these If We could not get appropriate borrower, as there were limitation on giving loans to certain categories, till that time, We are bound to keep our funds in the form of bank deposits so that We can pay due interest to our depositors It is not our case that We have idle fund which has been invested in bank deposits Our average deposits taken /accepted from members lies between the range of Rs 22 Crores to Rs.23 Crores Thus around 21% of these deposits i e Rs 9.45 Crores has to kept in the form of Bank FDRs/saving bank balance Thus interest received on bank FDR's/saving account has nexus with our business of providing credit facilities to members. Thus it is the operational income of our society rightly shown and assessed under the head "Profit and Gains of Business or Profession It can not be taxed under the head Income from other sources"

6.4) Sir, even otherwise, gross interest received of Rs. 10638621 from bank FDR's/Saving Bank could not be taxed Netting of expenses has to be done in fact expenses relating to this source of income has to be deducted from gross income.

We are paying interest to our depositor members as well as to banks whose funds have been utilised in making investment in bank This cost of deposit/borrowing is much more than the rate of interest received on investment made with banks in the form of FDR's/saving bank account if We disallowed such interest paid to our depositor members/banks then income from providing credit facilities to members will increase while income from making investments with other Cooperative banks will be ascertained at negative figures Thus there will be revenue neutral effect of this exercise as whole of income from providing credit facilities to members is deductible u/s 80P(2)(a)(i) of the Act.

6.5] Section 80P(2)(d) of the Act provides for deduction in respect of any income by way of interest or dividend derived by the cooperative society from it investment with any other cooperative society. Thus for the purpose of section 80P(2)(d) of the Act there are only two conditions which are required to be cumulatively satisfied i e the income should be by way of interest or dividend earned by the cooperative society from its investment and secondly such investment should be with any other cooperative society Besides these two conditions, there are no other condition.

Now the only dispute is as to whether the cooperative banks qualify to be Cooperative Society

This dispute is now settled by the verdict of Hon'ble Karnataka High Court in case of Pr CIT V/s Totagars Cooperative Sale Society 392 ITR 74 (Karnatka) It was held that the expression "Cooperative Society is an expression with bigger connotations and Cooperative Bank refer to a cooperative society doing a special kind of business In fact the provisions of various Acts governing Cooperative Societies are applicable to Cooperative Banks Thus the interest received from cooperative bank is nothing but the interest received from Cooperative Society

even the Banking regulation Act in section 56(i)(ccv) defines Primary Coop Society bank as a cooperative society

.....Sir the Hon'ble Supreme court decision given in the case of Totagars Cooperative Sale Society Ltd 322 ITR 283 (SC) is not applicable to the facts of our case in that case, the issue pertained to claiming of deduction under section 80 P(2)(a)(i) in respect of interest income and not under section 80 P (2)(d) being amount not invested with Coop bank that as such the facts are distinguishable

.....In Lokmangal Nagari Sahakari Pathsanstha Maryadit V/s PCIT-4 Pune vide order dated 29-11-2022 passed by the Jurisdictional Pune Bench of the Tribunal in ITA No 231/ Pune/2022 for A Y 2017-18 it was held that "Cooperative Bank is also a specie of Cooperative Society and therefore the interest income eamed by the Cooperative Society from the Cooperative Bank qualifies for deduction under section 80 P (2)(d) of the Act.

6.6] Sir, We have uploaded various documents before A U on 08-03-2022 while assessment order is passed on 12/09/2022 Thus ample time is taken by NFAC which consist of a dedicated team of tax official Viz Assessment Unit, Verification Unit. A technical Unit and a Review Unit Further advanced technologies like data analytics and artificial intelligence are employed not only to scrutinise tax returns but also to various information/data uploaded by us are subject to examination by NFAC Accordingly the gross interest income of Rs. 22873 received from nationalised Banks is correctly made deductible u/s 80P(2)(c) of the Act.

In this back drop, it cannot be said that, the assessment has been made without making inquires or verification which should have been made in fact the A U has taken one of the plausible view in the matter it seems that your honour has different view in the matter

6.7] Therefore, it is submitted that, the issue which is the subject matter of proposed revision, is covered in favour of us by aforesaid judicial precedents The copies of rulings are enclosed herewith and therefore it could not be said that Assessment Order is erroneous and therefore prejudicial to the interest of revenue

7] Your honour proposed revision to tax unclaimed dividend of RS 87864 credited to General Reserve Account being revenue receipt In this regard, We humbly submit as under

7.1] It is a capital receipt In fact it was a liability which remained unclaimed and therefore transferred to General Reserve Account Thus the nature of transaction changed from liability to own fund hence classified as capital receipt

7.2] It is not revenue receipt We have not received any sum from outside This liability was created by appropriating post tax net profit of the society it was not charged as expenses to the profit and loss account and claimed as deduction If it is brought to tax, then it will amount to double taxation

7.3] It is not extinguishment of liability which is created by claiming deduction of expenses in earlier years Thus provisions of section 41 could not be applied in our case

7.4] The aforesaid issue is duly settled by jurisdictional Pune ITAT Bench decision given in the case of (a) The Commercial Cooperative Bank Ltd V/s DCIT-Circle-2 Kolhapur ITA No 265/PN/2014 and (b) Bhingar Urban Coop Bank Ltd VS ITO in ITA No 2027,2028 and 2029/PN/2013, Pune ITAT The Tribunal held unclaimed dividend transferred to General Reserve Account could not be taxed The copies of ruling are enclosed herewith

8) *In nut shell, We submit that the Assessment Order passed by NFAC dated 12-09-2022 does not contain any error which leads to prejudice to the interest of revenue Hence the revision proceeding are not necessary We therefore request you Sir to drop the same."*

5. Despite the above submissions/contentions raised by the assessee in support of its claim of deduction u/s 80P of the Act and unclaimed dividend, the Ld. PCIT held the impugned assessment order passed by the Ld. AO as erroneous in so far as it is prejudicial to the interest of Revenue by invoking the provisions of section 263 of the Act. He, therefore, set aside the order to the file of the Ld. AO for examining the impugned issues and pass fresh assessment order in light of the enquiries made by him by observing as under :

"07. On perusal of the assessment record and submission of the assessee filed during the revisionary proceedings, it was noticed that the main argument of the assessee is that the activity of making investing surplus funds and earning of interest thereon is intrinsically linked to its main business activity and therefore, any income derived from such an activity is its business income and consequently, eligible for deduction u/s.80P(2)(a) of the Act. This argument of the assessee is not found to be tenable, in view of the specific provisions of the Act. Sec. 80P(2)(a)(i) provides for deduction to a cooperative society in respect of income derived by it from the business of banking or providing credit facilities to its members. Thus, what is sought to be given under the said provision is only the profit attributable to the core business of banking or providing credit facilities to its members. When the assessee gets deposits from its members and provides credit facilities again to its members, then what is left with it for investment is surely the surplus which is not required. Investing such surplus money, which is not immediately required for the business purposes and earning of interest on such investments cannot be said to be attributable to the core business of 'banking or providing credit facilities to its members'. The Hon'ble Supreme Court of India in the case of Totgars Co-operative Sales Society Ltd. Vs. ITO. (SC) (322 ITR 283)(2010) has held that the interest income which has been earned by investing surplus funds would come in the category of 'Income from other sources' taxable u/s 56 of the Act and would not qualify for deduction as business income u/s 80P(2)(a) of the Act. In the case, the Hon'ble Apex Court has stated inter-alia that –

"The words "the whole of the amount of profits and gains of business emphasise that the income in respect of which deduction is sought must constitute the operational income and not the other income which accrues to the Society. In this particular case, the evidence shows that the assessee-Society earns interest on funds which are not required for business purposes at the given point of time. Therefore, on the facts and circumstances of this case, in our view, such interest falls in the category of "other income" which has been rightly taxed by the Department under section 56 of the Act."

7.1 The assessee has also argued that Co-operative bank can be treated as co-operative society for the purpose of allowability of deduction u/s. 80P(2)(d) of the Act. In this regard, this is to state that a plain reading of the Sec. 80P(2)(d) of the Act shows that interest income earned by a cooperative society will be eligible for deduction only from its investments with another cooperative society. When there is no ambiguity in the plain reading of the Sec. 80P(2)(d) of the Act, there cannot be various interpretation. It is a settled principle of law that a plain and unambiguous meaning of legal provision is to be adopted for interpretation. This view has been expressed by the Hon'ble Supreme Court in the case of Prakash Nath Khanna Vs CIT (266 ITR1) (SC)[2004]. Therefore, the claim of the assessee

to treat the Co-operative Bank as Co-operative Society cannot be accepted. Further, the Hon'ble Karnataka High Court again in the case of PCIT Vs. Totgars Co-operative Sales Society Ltd. (395 ITR 611) (2017) held that a co-operative society would not be eligible for deduction u/s 80P(2)(d) on the interest income earned by it on account of deposit of its surplus funds in a co-operative bank. In the said case, it has also been held by the High Court that the banking business, even though run by a Co-operative bank is sought to be excluded from the beneficial provisions of exemption or deduction under section 80P of the Act, by bringing on the statute book sub-section (4) in section 80P. The Court noted that the words used in section 80P(4) are significant which says that 'The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society..... The words in relation to can include within its ambit and scope even the interest income earned by the assessee, a co-operative society from a Co-operative Bank. This exclusion by section 80P(4) even though without any amendment in section 80P(2)(d) is sufficient to deny the claim of the assessee for deduction under section 80P(2)(d).

7.2 The assessee has submitted while adjudicating appeals on similar issue, the Pune Benche of the ITAT has upheld the admissibility of deduction u/s.80P(2)(a)(i) on interest earned on investments made with cooperative banks. However, it needs to be noted that in all of these cases, the merit of the issue has not yet been examined and decided by the Hon'ble Jurisdictional Bombay High Court. Further, the order of the Assessing Officer is being held to be erroneous and prejudicial to the interest of revenue on the strength of decision of Hon'ble Supreme Court in the case of Totgars Co-operative Sales Society Ltd., which still happens to be the leading judgment on the issue of allowability of Section 80P(2)(a) of the Act.

08. The provision of Sec. 80P(2)(a) of the Act is meant as a deduction against business income. So the AO was duty bound to determine by conducting specific enquiry whether the interest income earned by the assessee is related to its core business or is a residuary income which is required to be taxed under the head "income from other sources". Similarly, even under the provision of Sec.80P(2)(d) of the Act interest income earned by a co-operative society will be eligible for deduction only from its investment with another co-operative society. Thus, the AO appears to have allowed the deduction without inquiring into the claim.

8.1 After the introduction of Explanation 2 to Sec. 263, of the Act it has been made clear as to what kind of assessment order shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue. The Explanation 2 to Sec. 263 is reproduced below :-

Explanation 2-For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer for 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."

8.2 From the above cited Explanation which has come into effect from 01.06.2015, it is clear that an assessment order, which has not been passed in accordance with a decision which is prejudicial to the assessee rendered by the Hon'ble Supreme Court, will be deemed to be both erroneous and prejudicial to the interest of revenue. Thus, deduction u/s 80P has been granted without making suitable enquiry and without considering the binding judgment of the Hon'ble Supreme Court of India in the case of Totgars Co-operative Sales Society Ltd. (supra). Therefore, assessment order has been passed in violation of sub-clause (b) and sub-clause (d) of Explanation 2 to Section 263 of the I.T. Act, 1961.

6.3 In respect of second issue i.e. unclaimed dividend of Rs.87,864/-, the assessee has neither made proper submission nor submitted any documentary evidence during the assessment proceedings as well as during the revisionary proceedings. On perusal of record, it is noticed that unclaimed dividends are revenue receipts due to their nature, as distributions of profit are intended for shareholders, they are the income of the share holders but which were not collected. Thus, the amount of Rs.87,864/- needs to be added to the total income of the assessee. During the assessment proceedings, the AO failed to verify the issue, therefore, the assessment order passed by the AO is erroneous and prejudicial to the interest of revenue.”

6. Aggrieved with such order of the Ld. PCIT, the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

7. The Ld. AR, at the outset, drew our attention to the order of the Ld. AO and submitted that the Ld. AO while passing the assessment order has allowed the claim of deduction u/s 80P of the Act after conducting the suitable enquiries in respect thereof. The Ld. AR submitted that during the course of assessment proceedings, the Ld. AO had called for various details in respect of the assessee's claim of deduction u/s 80P in response to which the assessee duly submitted the requisite details. It is only after considering the issue and due examination/verification of the details submitted by the assessee, the Ld. AO allowed the assessee's claim of deduction u/s 80P of the Act. He therefore submitted that it is not a case of lack of enquiry or no enquiry by the Ld. AO with respect to claim under consideration.

7.1 The Ld. AR also submitted that it is a well settled position of law that when the Ld. AO has decided an issue after due application of mind merely because the Ld. PCIT does not agree with the view of the Ld. AO which is plausible view, the Ld. PCIT cannot invoke the provisions of section 263 of the Act.

7.2 The Ld. AR further submitted that the impugned issue regarding the assessee's claim of deduction u/s 80P(2)(a)/80P(2)(d) of the Act in respect of

interest income earned by it from co-operative/other bank raised by the Ld. PCIT is covered in favour of the assessee by catena of decisions of various judicial forums including the Pune Bench of the Tribunal. Even otherwise also it is a highly debatable issue and the Ld. AO has taken a plausible view, therefore, the Ld. PCIT cannot invoke the jurisdiction u/s 263 of the Act on an issue which has already been examined by the Ld. AO and who has taken a plausible view. Hence, the Ld. PCIT was not justified in setting aside the impugned issue of interest income earned by the assessee from Nationalized and Co-operative Banks during the year under consideration, to the file of the Ld. AO for re-verification thereof.

7.3 On the issue relating to the unclaimed dividend, the Ld. AR submitted that the unclaimed dividend could not be treated as income of the assessee and hence, there was no reason for the Ld. PCIT to set aside the assessment order and direct the Ld. AO to verify the claim of the assessee. The Ld. AR submitted that the impugned issue is covered in favour of the assessee by the decision of the Pune Bench of Tribunal in the case of The Commercial Co-operative Bank Ltd. Vs. DCIT in ITA No. 265/PN/2014 for AY 2010-11, order dated 31.03.2015 wherein the Tribunal deleted the addition made by the Assessing Officer on account of dividend transferred to Reserve Fund. The Ld. AR further submitted that the assessee had brought this decision to the attention of the Ld. PCIT vide its submission dated 17.02.2015 which has been incorporated by the Ld. PCIT in para 7 of the impugned order, however, he has rejected the assessee's claim without considering the same.

8. The Ld. DR, on the other hand, strongly supported the order of the Ld. PCIT and contended that the Ld. PCIT is completely justified in assuming the jurisdiction u/s 263 of the Act as no detailed/specific enquiry on the impugned issues have been conducted by the Ld. AO.

9. We have heard the Ld. Representatives of the parties, perused the material available on record and the paper book filed by the Ld. AR on behalf of the assessee. We have also considered the judicial precedents cited by the Ld. AR. We find the Ld. PCIT in the instant case has assumed jurisdiction u/s 263 of the Act for the reason that the Ld. AO has failed to conduct specific enquiry as to whether the interest income earned by the assessee is related to its core business or is a residuary income which is required to be taxed under the head

‘income from other sources’ in order to determine assessee’s eligibility of claim of deduction u/s 80P(2)(a) of the Act which is available only against business income of the assessee. Further, according to the Ld. PCIT, the Ld. AO appears to have allowed the assessee’s claim of deduction u/s 80P(2)(d) of the Act without inquiring into the claim since under the provisions of section 80P(2)(d) of the Act interest income earned by the Co-operative Society will be eligible for deduction only from its investment with another Co-operative Society. We find that the Ld. AO has examined this issue during the course of assessment proceedings and asked specific queries to the assessee relating to assessee’s claim of deduction u/s 80P of the Act, in response to which the assessee duly submitted its reply, the details of which are placed on record at pages 1 to 11 of the Paper Book. Perusal of the same shows that the Ld. AO had in fact raised the query on this issue to which the assessee duly replied. We find that in the assessment order passed u/s 143(3) of the Act the Ld. AO has accepted the returned income of Rs.1,52,470/- after considering the facts and evidence submitted by the assessee and allowed the assessee’s claim of deduction u/s 80P of the Act after verifying the same with the statement of total income and details furnished by the assessee. Hence, in our view since the Ld. AO in the instant case has made enquiry on the issue and there after allowed the assessee’s claim of deduction u/s 80P of the Act it cannot be said that the assessment order passed by the Ld. AO is erroneous in so far as it is prejudicial to the interest of the Revenue.

10. Further, according to Ld. PCIT the act of making deposits out of deposits received from the members cannot be considered to be attributable to the business of providing credit facilities by the assessee to its members and hence placing reliance on the decision of the Hon’ble Supreme Court in the case of Totgar’s Cooperative Sale Society Ltd. Vs. ITO (supra) and the Hon’ble High Court of Karnataka in the case of Pr. CIT, Hubali Vs. Totgars Cooperative Sale Society (supra), the Ld. PCIT opined that the interest earned on deposits kept with scheduled banks/co-operative banks cannot be allowed as deduction u/s 80P of the Act and such interest to be brought to tax. Admittedly, the assessee has earned interest income from deposits made with Co-operative Bank(s)/Nationalized Bank(s) during the relevant AY under consideration. We find that the impugned issue in respect of which the Ld. PCIT has invoked the provisions of section 263 of the Act is covered in favour of the assessee by various decisions of the Co-ordinate Bench of the Tribunal including the Pune

and Mumbai Tribunal as well as by the Hon'ble High Courts wherein the Tribunals/ Courts have consistently taken a view that the interest income earned by a co-operative society on deposits made out of surplus fund with Co-operative Bank(s)/Nationalized Bank(s) qualify for deduction under the provisions of section 80P(2)(a)(i)/80P(2)(d) of the Act. The case of the assessee also finds support from the various decisions wherein revision order under section 263 has been set aside under the similar fact pattern to that of the assessee in the present appeal.

11. The Co-ordinate Bench of the Tribunal in the case of Talegaon Nagari Sahakari Patsanstha Limited Vs. ITO in ITA No. 743/PUN/2024 for AY 2020-21, dated 03.06.2024 has held that the interest income earned by a co-operative society on deposits made out of surplus funds with co-operative banks as well as scheduled banks qualify for deduction both under the provisions of section 80P(2)(a)(i) and 80P(2)(d) of the Act. Since, the Ld. AO in the instant case after considering the submission of the assessee has taken a plausible view, therefore, the same in our opinion cannot be considered as erroneous although it may be prejudicial to the interest of the Revenue.

12. It is the settled position of law that for assuming the jurisdiction u/s 263 of the Act the twin conditions must be fulfilled simultaneously i.e. (i) the order of the Ld. AO is erroneous and (ii) the assessment order is prejudicial to the interest of the Revenue. Considering the factual matrix of the case and legal position set out above, in our view, the order passed by the Ld. AO u/s 143(3) of the Act may be prejudicial to the interest of the Revenue but it cannot be said to be erroneous. The Ld. AO has allowed the assessee's claim of deduction u/s 80P of the Act after verifying the requisite details called from the assessee. Even otherwise also, it is a highly debatable issue and the Ld. AO has taken a plausible view, therefore, the Ld. PCIT cannot invoke the jurisdiction u/s 263 of the Act on an issue which has already been examined by the Ld. AO and who has taken a plausible view. Therefore, in the absence of fulfillment of both the twin conditions, in our considered view, the Ld. PCIT is not justified in invoking the provisions of section 263 of the Act. We, therefore, set aside the order of the Ld. PCIT. The effective grounds of appeal raised by the assessee on this issue i.e. ground Nos. 2, 3, 6, 7, 8 and 9 are accordingly allowed.

13. So far as the issue relating to unclaimed dividend is concerned, it is the submissions of the Ld. AR that the impugned issue is covered in favour of the assessee by the decision of the Pune Bench of the Tribunal in the case of The Commercial Co-operative Bank Ltd. Vs. DCIT (supra) and hence no addition to the income of the assessee is called for on this issue. We have perused the order of the Pune Bench of the Tribunal in the case of The Commercial Co-operative Bank Ltd. Vs. DCIT (supra) and find that the Tribunal has deleted the impugned addition made on account of unclaimed dividend transferred to Reserve Fund in turn relying on the decision of the Co-ordinate Bench in the case of Bhingar Urban Co-op. bank Ltd. Vs. ITO vide ITA No. 2027/PN/2013 and others dated 20.10.2014. The relevant findings and observations of the Tribunal is reproduced below :

“3. In this appeal, issue relates to an addition of Rs.3,21,437/- made by the lower authorities on account of unclaimed dividend transferred to Reserve Fund by the assessee. The Assessing Officer as well as the CIT(A) were of the view that the transfer of unclaimed dividend to the General Reserve Fund showed that such liability ceased to exist and therefore, the same was liable to be taxed.

4. At the time of hearing, it was a common point between the parties that an identical issue has been decided in the favour of the assessee by the decision of the Pune Bench of the Tribunal in the case of Bhingar Urban Coop. Bank Ltd. vs. ITO vide ITA No.2027/PN/2013 & others dated 20.10.2014. The relevant portion of the order of the Tribunal dated 20.10.2014 (supra), reads as under :-

“5. In our considered opinion, the lower authorities have mis-directed themselves in taxing the unclaimed dividend as an income. Ostensibly, dividend distribution by the assessee bank is an apportioned from its tax paid profits and does not a charge against the profits for the purposes of computing taxable income. Once dividend declared by the assessee bank is not a charge against the profits in order to compute taxable income, any unclaimed dividend thereof, cannot be charged as an income under the Act. Therefore, we set-aside the order of the CIT(A) and direct the Assessing Officer to delete the impugned addition. Thus, on Ground of Appeal No.2, the assessee succeeds.”

5. Following the aforesaid precedent, we hereby set-aside the order of the CIT(A) and direct the Assessing Officer to delete the impugned addition of Rs. 3,21,437/- made on account of unclaimed dividend transferred to Reserve Fund. Thus, on this Ground assessee succeeds.”

14. In the instant case admittedly although no specific query has been raised by the Ld. AO on the issue relating to unclaimed dividend, however this issue has already been decided by the Co-ordinate Bench of the Tribunal by its decision (supra) in favour of the assessee and against the Revenue. Therefore, in our view, on this issue also the assessment order is neither erroneous nor prejudicial to the interest of the Revenue. Our view finds support by the decision of the Mumbai Bench of the Tribunal in the case of Union Bank of

India Vs. DCIT in ITA No. 2956/MUM/2024, order dated 20.06.2015. Accordingly, ground Nos. 4 and 10 raised by the assessee on this issue is allowed.

15. Ground Nos. 1, 5 and 11 are general in nature, hence require no adjudication.

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

Order pronounced in the open court on 05th February, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 05th February, 2026.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune