आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
DR. DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos.793 & 794/RJT/2025
Assessment Years: (2018-19 & 2020-21)
(Physical Hearing)

Shree Keshav Co-op. Credit Society Limited, 1, Keshav Bhavan, 5- Govardhan Park, Near Sardar Baug Jakat Naka, Junagadh – 362001, Gujarat	**बनाम/ Vs.**	DCIT/ACIT, Circle – 1(1), Rajkot
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **AAAAS3172N**		
(Assessee)		**(Respondent)**

निर्धारिती की ओर से/Assessee by : Shri D. M. Rindani, AR
राजस्व की ओर से/Respondent by : Shri Dheeraj Kumar Gupta, Sr. DR

सुनवाई की तारीख/**Date of Hearing : 03/02/2026**
घोषणा की तारीख/**Date of Pronouncement : 12/02/2026**

आदेश /ORDER

Per, Dr. Arjun Lal Saini, AM:

The captioned two appeals filed by the assessee, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals), [Ld. CIT(A)], National Faceless Appeal Centre, Delhi, dated 29.09.2025, which in turn arise out of separate assessment orders passed by the Assessing Officer (AO) under section 143(3) r.w.s. 143(3A) & 143(3B) and 143(3) r.w.s. 144B of the Income Tax Act, 1961 ('the Act') dated 10.03.2021 and 10.09.2022 respectively.

2. Since, the issues involved in all these assessee`s appeals are common and identical; therefore, these appeals have been heard together and are being disposed of by this consolidated order.

3. The grounds of appeal raised by the assessee, in ITA No. 793/Rjt/2025, for assessment year 2018-19, are as follows:

"1. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi failed to appreciate that the order passed by the ITO, E-assessment Centre, Delhi, is bad in law as the assessment was framed u/s 143(3) prior to expiry of time given to file a reply in response to show cause notice.

2. On merits, the learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi erred in upholding the action of Assessing Officer in treating interest income of Rs. 2,37,53,299/-, earned from deposits with co-operative banks as income from other sources and thereby disallowing the same u/s 80P(2)(a)(i) of the Act.

3. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi failed to appreciate that alternatively, the whole of interest derived by cooperative society from its investments with any other co-operative society was also deductible u/s 80P(2)(d) of the Act by disregarding decisions of jurisdictional High Court and that of Ahmedabad Tribunal relied upon by the appellant in this regard.

4. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi further failed to appreciate that similar claims were allowed to the appellant by the Dept. in various scrutiny assessments particularly for A.Y. 2014-15 during proceedings under section 143(3) r.w.s. 263 of the Act.

5. The appellant craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal."

4. The grounds of appeal raised by the assessee in ITA No.794/Rjt/2025 for assessment year 2020–21, are as follows:

"1. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi erred in upholding the action of Assessing Officer in disallowing the claim of deduction of Rs.1,58,51,608/- u/s 80P(2)(d) of the Act, out of interest earned from deposits with co-operative banks and treating the same as income from other sources.

2. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi failed to appreciate that alternatively, the whole of interest derived by cooperative society from its investment with any other co-operative society was also deductible u/s 80P(2)(d) of the Act by disregarding decision of jurisdictional High Court and that of Ahmedabad Tribunal relied upon by the appellant in this regard.

3. The learned Commissioner (Appeals), National Faceless Appeal Centre (NFAC), Delhi further failed to appreciate that similar claims were allowed to the appellant by the Dept. in various scrutiny assessments.

4. The appellant craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal."

5. When these two appeals were called out for hearing, learned counsel for the assessee invited our attention to the order, dated 31.07.2024, passed by the Division Bench of this Tribunal in the case of Shri Avadh Nagarik Sahakari Mandli Ltd. vs. PCIT-1, Rajkot, in ITA No.126/Rjt/2023, wherein, the Tribunal allowed the claim of the assessee under section 80P(2) (d) of the Act, in respect of interest earned from fixed deposits made with Rajkot Nagrik Sahakari Bank Ltd. Learned Counsel for the assessee also stated that assessee does not wish to press ground under 80P(2)(a)(i) of the Act, in respect of interest earned from fixed deposits made with Rajkot Nagrik Sahakari Bank Ltd, as the assessee alternatively claimed the deduction under section 80P(2) (d) of the Act, in respect of interest earned from fixed deposits made with Rajkot Nagrik Sahakari Bank Ltd, for both assessment years, i.e., 2018–19 and 2020–21. Therefore, claim of the assessee for both assessment years, maybe allowed, under section 80P(2) (d) of the Act. Therefore, Learned counsel for the assessee submitted that both the appeals are squarely covered by the aforesaid order of the Tribunal, in the case of Shri Avadh Nagarik Sahakari Mandli Ltd (supra), a copy of which was also placed before the Bench.

6. On the other hand, learned DR for the revenue, relied on the findings of the assessing officer.

7. We have heard both the parties. We see no reasons to take any other view of the matter than the view so taken by the Division Bench of this Tribunal in the case of Shri Avadh Nagarik Sahakari Mandli Ltd (supra). In this order, the Tribunal has inter alia observed as follows:

> *"**Analysis and Conclusion***
>
> *23. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the ld. PCIT and other material brought on record. We note that during the assessment proceedings, the Assessing Officer issued notice under section 142(1) of the Act, dated 16.01.2020, which is placed at paper book page no.15, wherein the Assessing Officer has especially asked the assessee, to furnish eligibility criteria of deduction claimed in different sections of*

Chapter VI-A, especially under section 80P(2)(a)(i) and under section 80P(2)(d) of the Act. The assessing officer, has also asked the assessee to furnish the documentary evidence in support of its claim of deduction under Chapter VI-A. In response to the said notice under section 142(1) of the Act, the assessee has submitted its reply, dated 01.12.2020 (vide paper book page nos. 17 to 21),before the Assessing Officer, the relevant part of the assessee`s reply dated 01.12.2020, is reproduced below:

॥ सत्यमेव जयते ॥

શ્રી અવધ નાગરિક શરાફી સહકારી મંડળી લી.

હેડ પોસ્ટ ઓફિસ સામે, અમરેલી-૩૬૫૬૦૧. ફોન : ૦૨૭૯૨-૨૨૭૨૯૯

ઓડીટ વર્ગ 'આ' રજી.ના.સે.શ.૩૬૭૫૨ રજી.તા.૨૨-૨-૨૦૧૦

તારીખ :

Sr. No	Name and Quality of the shares held	Purchase Price per Unit	Total Purchase Consideration	Date of Purchase	Source of Funds for Investment	Date of Sale	Sale Consi-deration	Calculation of Capital Gains/ Loss on Sale
➢ The details in respect of Investments in Shares is enclosed herewith for your verification in Annexure C.								

3. The Details in respect of deduction claimed under chapter VI-A is as under:

i. The Details of the earnings for which deductions claimed under section 80P(2)(a)(i) & 80P(2)(d) is as under:

Shri Avadh Nagrik Sarafi Sahkari Mandali Limited					
Calculation of Amount of Deduction under various sub sections of section 80P of the Act					
No.	Particulars		Amt.	Amt.	Amt.
A	Section 80P(2)(a)(i) - Income received on Loan which has been given to members of the Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited"				24,42,937.00
	*	Net Profit during the A.Y.2018-19		32,76,731.00	
	Add:	Disallowance as per P&L Account		10,59,992.00	
		Vehicle Depreciation Fund Exp.	4,11,045.00		
		Member's Gift Exp.	2,25,020.00		
		Depreciation	4,23,927.00		
	Less:	Income from Other Head		(-)18,93,786.00	
		Interest Income	18,41,436.00		
		Dividend Income	52,350.00		
B	Section 80P(2)(d) - Interest or dividend from its investment with any other co-operative society				18,93,786.00
	*	Interest Income from other Co-operative Bank/ Co-operative Society		18,41,436.00	
	*	Dividend Income from other Co-operative Bank/ Co-operative Society		52,350.00	
Total Amount of Deduction under various sub sections of section 80P of the Act					43,36,723.00

॥ सत्यमेव जयते ॥

શ્રી અવધ નાગરિક શરાફી સહકારી મંડળી લી.

હેડ પોસ્ટ ઓફિસ સામે, અમરેલી-૩૬૫૬૦૧. ફોન : ૦૨૭૯૨-૨૨૭૨૯૯

ઓડીટ વર્ગ 'અ' રજી.નં.સે.શ.૩૬૭૫૨ રજી.તા.૨૨-૨-૨૦૧૦

તારીખ :

ii. Note on eligibility criteria of deductions under different sections of Chapter VI-A is as under:

- The Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited" engaged into the above mentioned (Mentioned in Answer No.1) Activities during the year under consideration; Thus, The Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited" has eligible for deductions under various sub sections of section 80P. The details of eligibility of deductions under various sub sections of section 80P is as under:

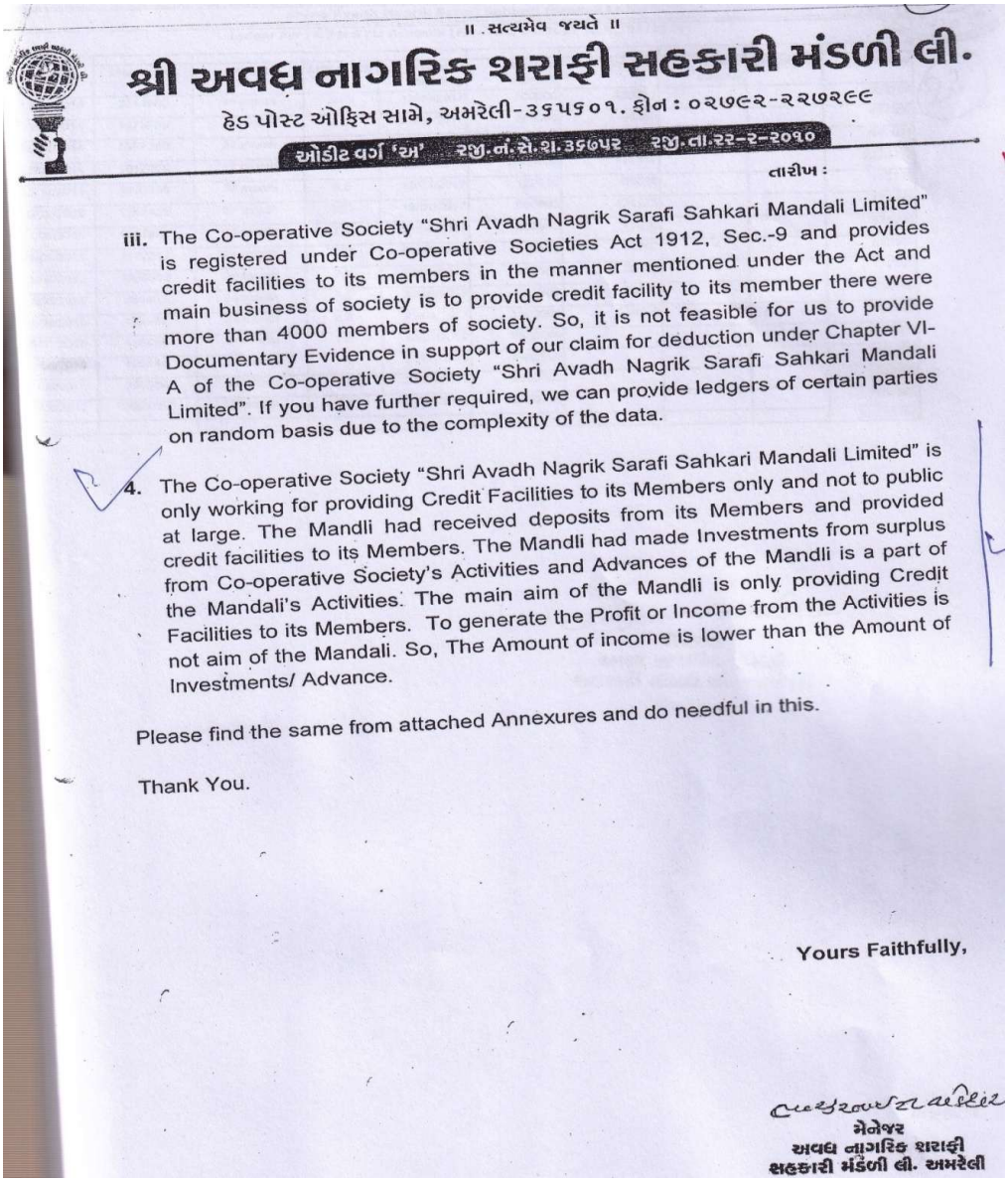
  a. **Section 80P(2)(a)(i)** - Income received on Loan which has been given to members of the Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited"

     - Income received on Loan, banking or providing credit facilities to its members which has been given to members of the Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited" which is eligible for deduction under Section 80P(2)(a)(i).

  b. Section 80P(2)(d) - Interest or dividend from its investment with any other co-operative society:
     - Interest Income is eligible for deduction u/s 80P(2)(d).
     - Dividend Income is eligible for deduction u/s 80P(2)(d).

- The above mentioned Income is eligible for deduction under various sub sections of section 80P; hence, the said Income of the Co-operative Society "Rajula Khambha Taluka Cooperative Purchase and Sales Union Limited" Shall not be disallowed u/s 80P.

મેનેજર
અવધ નાગરિક શરાફી
સહકારી મંડળી લી. અમરેલી



॥ सत्यमेव जयते ॥

શ્રી અવધ નાગરિક શરાફી સહકારી મંડળી લી.

હેડ પોસ્ટ ઓફિસ સામે, અમરેલી-૩૬૫૬૦૧. ફોન : ૦૨૭૯૨-૨૨૭૨૯૯

ઓડીટ વર્ગ 'અ' રજી.નં.સે.શ.૩૬૭૫૨ રજી.તા.૨૨-૨-૨૦૧૦

તારીખ :

iii. The Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited" is registered under Co-operative Societies Act 1912, Sec.-9 and provides credit facilities to its members in the manner mentioned under the Act and main business of society is to provide credit facility to its member there were more than 4000 members of society. So, it is not feasible for us to provide Documentary Evidence in support of our claim for deduction under Chapter VI-A of the Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited". If you have further required, we can provide ledgers of certain parties on random basis due to the complexity of the data.

4. The Co-operative Society "Shri Avadh Nagrik Sarafi Sahkari Mandali Limited" is only working for providing Credit Facilities to its Members only and not to public at large. The Mandli had received deposits from its Members and provided credit facilities to its Members. The Mandli had made Investments from surplus from Co-operative Society's Activities and Advances of the Mandli is a part of the Mandali's Activities. The main aim of the Mandli is only providing Credit Facilities to its Members. To generate the Profit or Income from the Activities is not aim of the Mandali. So, The Amount of income is lower than the Amount of Investments/ Advance.

Please find the same from attached Annexures and do needful in this.

Thank You.

Yours Faithfully,

મેનેજર
અવધ નાગરિક શરાફી
સહકારી મંડળી લી. અમરેલી

From the above computation of total income and explanation of the total income submitted by the assessee, before the assessing officer, we find that assessee has shown, interest received from cooperative bank on fixed deposit, as income in profit and loss account, at Rs.18,41,436/-, (Vide assessee`s paper book page No.28), however the assessee has deducted, the said interest of fixed deposit of Rs.18,41,436/-, from its business income, in the computation of total income, (vide assessee`s computation of total income on page No. 25 of the assessee`s paper book),and the amount of Rs.18,41,436/- is show by the assessee, in the computation of total income, under the head income from other sources,and claimed the deduction u/s 80P(2)(d) of the Act, at Rs.18,41,436/-. The assessee has also shown, under the head income from other sources, amount of Rs.52,350/-, as dividend received from Co-operative Bank and claimed the deduction u/s 80P(2)(d) of the Act.

24. During the course of hearing, ld Counsel for the assessee, clarified the Bench that assessee, by mistake, wrongly submitted, in the written submission, before the ld. PCIT, as if, the assessee claimed deduction under section 80P(2) (a) (i) of the Act, in respect of amount ofRs.18,41,436/- and Rs.52,350/-, in fact, the assessee has claimed the deduction u/s 80P(2)(d) of the Act, amounting to Rs.18,41,436/- and amounting toRs.52,350/-, respectively, as stated above. Thus, we note that ld. PCIT has exercised his jurisdiction under section 263 of the Act, mainly on the amount of Rs.Rs.18,41,436/- and Rs.52,350/-, as narrated above, andld. PCIT directed the assessing officer to examine the dividend income, if the dividend income is earned by the assessee from Co-operative Bank. Therefore, ld. PCIT directed the assessing officer to disallow the interest and dividend income earned from Co-operative Bank, which, as per ld PCIT, are not eligible for deduction under section 80P(2)(d) of the Act.

25. We note that the assessee's case was selected for limited scrutiny to examine investments, advances, loans, unsecured loans, deduction from total income under Chapter VI-A of the Act. The findings of the Assessing Officer under section 143(3) of the Act, are reproduced below:

> *"1. The case was selected for Limited Scrutiny assessment under the E-assessment Scheme, 2019 on the following issues:*
>
> | ***S. No.*** | ***Issues*** |
> |---|---|
> | *i.* | *Investments/Advances/Loans* |
> | *ii.* | *Unsecured Loans* |
> | *iii.* | *Deduction from Total Income under Chapter VI-A* |
>
> *The assessee society has filed Return of Income for AY.2018-19 on 13.08.2018, vide acknowledgment no.108456181130818, reflecting Gross Total Income Rs.43,36,723/- and after claiming deduction u/s 80P(2) of the I.T. Act, 1961 Returned income is declared NIL. The same is processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter mentioned Act).*
>
> *2. Notice u/s 143(2) of the Act issued on 22.09.2019 and thereafter notices u/s 142(1) of the Act along with questionnaire were issued.*
>
> *3. In response to the notices issued, the assessee society has furnished all the relevant details called for. The same has been perused carefully and found to be in order.*
>
> *4. In view of the above facts of the case and after considering the details furnished, the total income returned by the assessee is accepted."*

26. From the above assessment order, it is vivid with that during the assessment proceedings, the assessing officer issued notice under section 142(1) of the Act, dated 16.11.2020, which is placed at assessee`s paper page No.15, and response to the said notice of 142(1) of the Act, the assessee submitted its reply, dated 01.12.2020, which is placed at paper book page No. 17 to 23. Therefore, no doubt, that during the assessment proceedings, the assessing officer called the details from the assessee to examine the deduction claimed by the assessee, under section 80P(2)(a)(i) of the Act and under section 80P (2) (d) of the Act, hence, details has been called by the assessing officer during the assessment proceedings, and these details were examined by the assessing

officer, pertaining to issue raised by the ld PCIT, relating to deduction under section80P (2) (d) of the Act, that is, the solitary issue raised by the ld PCIT, that interest received from Co-operative Banks are not allowed under section 80P(2)(d) of the Act. In this regard, the ld Counsel for the assessee submitted that since during the assessment proceedings, the assessing officer had examined the issue raised by the ld PCIT and has taken the plausible view, therefore, order passed by the assessing officer, is neither erroneous nor prejudicial to the interest of revenue, hence order passed by the ld PCIT, under section 263 of the Act, may be quashed.

27. However, we do not agree with the arguments advanced by the ld. Counsel for the assessee, to the effect that the assessing officer has examined the issue raised by the ld PCIT, by calling the details from the assessee, and has taken the plausible view. We note that just to call the details by issuing notice under section 142(1) of the Act and in response to that notice submission made by the assessee and assessing officer, having examined the details filed by the assessee, took the plausible view, is not sufficient. ***Over and above, such exercise narrated above, the order passed by the assessing officer, should be sustainable in the eye of law.***

28. Hence, we have to examine, whether order passed by the assessing officer, in the assessee's case under consideration is sustainable in the eye law.Therefore, we find merit in the submissions of the ld. D.R. for the Revenue to the effect that by way of issuing notice u/s. 142(1) of the Act and reply of the assessee against the notice u/s 142(1) of the Act, and then examination by the assessing and taking the plausible view, is not sufficient. The ld. D.R. for the Revenue stated that in the assessee's case under consideration, assessing officer cannot take a plausible view specially when there is a judgement of Hon'ble Gujarat High Court in the case of Katlary Karyana Merchant Sahkari Sarafi Mandali Ltd. (2022) 140 taxmann.com 602 (Gujarat), wherein it was held that interest received from co-operative banks and other banks are not eligible for deduction u/s. 80P(2)(d) of the Act. The reason being, the assessing officer ignored the judgement of the jurisdictional High Court of Gujarat, in the case of Katlary Karyana (Supra). Therefore, ld. D.R. stated that the order passed by the assessing officer is not sustainable in the eyes of law and hence the ld. PCIT has rightly exercised his jurisdiction as per clause (d) of explanation 2 of section 263 of the Act. Therefore, as per ld. DR. for the Revenue the order passed by the assessing officer is erroneous as well as prejudicial to the interest of the Revenue. We note that arguments advanced by the ld. D.R. for the Revenue carries weight, and he has rightly stated that order passed by the assessing officer is not sustainable in the eyes of law. We also agree that during the assessment proceedings just to call the details by issuing notice u/s. 142(1) of the Act and in response to that submission of the details by the assessee and then examining the same by assessing officer (AO) and having examined the same, assessing officer takes plausible view, is not sufficient. ***However, that plausible view should be sustainable in the eyes of law, as there is direct judgement on the issue under consideration by the jurisdictional High Court of Gujarat, in the case of Katlary Karyana (Supra).***

29. In order to find the answer of the question that plausible view taken by the assessing officer (AO) should be sustainable in the eye of law, we have to take guidance from the judgement of the Hon`ble Supreme Court, and for that, let us take the guidance of judicial precedents laid down by the Hon'ble Supreme Court in Malabar Industries Ltd. vs. CIT [2000] 243 ITR 83 (SC) wherein their Lordship have held that twin conditions needs to be satisfied before exercising revisional jurisdiction u/s 263 of the

Act by the CIT. The twin conditions are that the order of the Assessing Officer must be erroneous and so far as prejudicial to the interest of the Revenue. In the following circumstances, the order of the AO can be held to be erroneous order, that is (i) if the Assessing Officer's order was passed on incorrect assumption of fact; or (ii) incorrect application of law; or (iii)Assessing Officer's order is in violation of the principle of natural justice; or (iv) if the order is passed by the Assessing Officer without application of mind; (v) if the AO has not investigated the issue before him; then the order passed by the Assessing Officer can be termed as erroneous order. Coming next to the second limb, which is required to be examined as to whether the actions of the AO can be termed as prejudicial to the interest of Revenue. When this aspect is examined, one has to understand what is prejudicial to the interest of the revenue. The Hon'ble Supreme Court in the case of Malabar Industries (supra) held that this phrase i.e. ***"prejudicial to the interest of the revenue''*** *has to be read in conjunction with an erroneous order passed by the Assessing Officer. Their Lordship held that it has to be remembered that every loss of revenue as a consequence of an order of Assessing Officer cannot be treated as prejudicial to the interest of the revenue. When the Assessing Officer adopted one of the courses permissible in law and it has resulted in loss to the revenue, or where two views are possible and the Assessing Officer has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the revenue* ***"unless the view taken by the Assessing Officer is unsustainable in law".***

30. Taking note of the aforesaid dictum of law laid down by the Hon'ble Apex Court, let us examine the issue under consideration. We agree with the ld. D.R. for the Revenue that just to collect the details during the assessment proceedings by issuing notice 142(1) of the Act, and furnishing of the details by the assessee, in response to that notice, and then after examination of the issue by AO and then to take a plausible view, by assessing officer is not sufficient, as we have noted that Hon'ble Apex Court in the case of Malavar Industries Ltd. (supra) has clearly pointed out that the view taken by the assessing officer, should be sustainable in the eyes of law. Therefore, in these circumstances, we have to examine whether it was necessary for the assessing officer to accept the ratio laid down by the Hon'ble Jurisdictional High Court in the case of Katlary Karayana (supra), wherein the Hon'ble Court has noted that interest from Co-operative banks and other banks are not eligible for deduction under section 80P(2)(d) of the Act. Since it is the judgement of the Jurisdictional High court of Gujarat, therefore, assessing officer should not take a plausible view specially when there is a judgment of jurisdictional High Court. ***Therefore, we have to examine whether judgement of Hon'ble Jurisdictional Gujarat High Court in the case of Katlary Karayana (supra), is applicable to the assessee's case under consideration or not.***

31. We find that in section 80P(2)(d) of the Income Tax Act,1961, there is no special exclusion that interest received from co-operative bank is not eligible for deduction. We have noted that definition of "co-operative society" as mentioned in section 2(19) of the Income Tax Act, 1961 does not make any exclusion about co-operative bank. We note that in order to become a co-operative bank, the first condition is that it should be a co-operative society. Therefore, a co-operative society, later on decides to take license from the Reserve Bank of India to do banking business wherein the Co-operative society may lend the money and borrow the money, and for that purpose, the co-operative society has to take a license from the Reserve Bank of India and after taking license from the Reserve Bank of India said Co-operative society, becomes a co-operative bank also, which was first a co-operative society. We also find that the decision rendered by the Hon'ble Jurisdictional High Court of Gujarat in the case of

Katlary Karayana (supra), is in the context of a specific definition mentioned in section 194A of the Act, therefore, the judgement delivered by the Jurisdictional High Court in the case of Katlary Karayana (supra), is in a different context. Besides the judgement of Hon'ble High Court of Gujarat in the case of Katlary Karayana (supra) is in the context of reopening of assessment u/s 147/148 of the Act wherein the Hon'ble Court has examined whether income has escaped assessment or not. Hence, this judgment is not binding precedent on the assessee where there are other direct judgments of the Hon'ble jurisdictional Gujarat High Court on the 'issue' under consideration, which we are going to discuss in the subsequent paragraphs of this order.

32. We note that the Hon'ble Jurisdictional Gujarat High Court in the case of ***Sabarkantha District Co-operative Milk Producers Union Ltd. In Tax Appeal No.473 of 2014 dated 16-06-2014 (Guj HC)*** *held that interest received from the co-operative bank is allowable as a deduction u/s.80P(2)(d) of the Act. We also find that there is another judgment of the Hon'ble Gujarat High Court in the case of Surat Vankar Sahakari Sangh Ltd. 421 ITR 134 (Guj HC) wherein the Hon'ble Gujarat High Court held that interest received from co-operative bank is allowable deduction u/s. 80P(2)(d) of the Act. Therefore, we find that the above judgments i.e. in case of Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and in case of Surat Vankar Sahakari Sangh Ltd. (supra), the Hon'ble Jurisdictional High Court clearly held that interest received from Co-operative banks, are allowable as a deduction u/s. 80P(2)(d) of the Act. These two old judgments were not distinguished by the Hon'ble Jurisdictional High court in the case of Katlary Karayana(supra) i.e. the Hon'ble Jurisdictional High Court of Gujarat did not overrule and did not distinguish and reject the earlier judgments delivered by it in case of Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and Surat Vankar Sahakari Sangh Ltd. (supra), in the case of the latest judgement of Hon'ble Gujarat High Court in the case of Katlary Karayana (supra). Therefore, the Hon'ble jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra) has not overruled the ratio decided by it in the earlier judgments namely; (i)Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and (ii) Surat Vankar Sahakari Sangh Ltd. (supra). Therefore, ratio of these old judgments namely;(i) Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and (ii) Surat Vankar Sahakari Sangh Ltd. (supra) will still be applicable to the assessee under consideration as these judgements never distinguished and never overruled by constituting a larger Bench by the Hon'ble Jurisdictional Gujarat High Court.*

33. We also find that the Hon'ble jurisdictional High Court in the case of State Bank of India v. CIT 2016 389 ITR 578 (Guj. HC) has also held that any income by way of interest derived by a Co-operative society from its investment with any other Co-operative bank would be deductible u/s. 80P(2)(d) of the Act.

34. We also find that Hon'ble Gujarat High Court has recently modified the judgement delivered by it in Katlary Karayana (supra) on 26th April, 2024 by removing error in the judgment of Katlary Karayana (supra). The ld DR for the Revenue, informed the Bench that Hon`ble High Court has only removed the word "co-operative" from the reproduction of reasons recorded by the assessing officer. Hence it does not impact on the ratio laid down by the Hon`ble Court. Learned Counsel for the assessee, has also argued before the Bench and submitted written submission that there is no material modification done by the Hon`ble Gujarat High Court in the case of Katlary Karayana (supra).

35. ***Therefore, we find that the assessing officer has taken the plausible view which is sustainable in the eyes of law i.e. the view taken by the assessing officer is not against the judgment of the Jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra). Because, the assessing officer has taken the plausible view based on the old judgements of the jurisdictional, Hon`ble High Court of Gujarat, namely; (i) Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and, (ii) Surat Vankar Sahakari Sangh Ltd. (supra) and the ratio of these old judgments namely; (i) Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and, (ii) Surat Vankar Sahakari Sangh Ltd. (supra) would still be applicable to the assessee under consideration, as these judgements never distinguished and never overruled by constituting a larger Bench by the Hon'ble Jurisdictional Gujarat High Court.*** *Hence, we find that the assessing officer has definitely taken a plausible view after examination of the issue under consideration which cannot be subject to revision by the ld. PCIT u/s. 263 of the Act because the view taken by the assessing officer is sustainable in law. Therefore, the argument advanced by the ld. D.R. for the Revenue, to the effect that assessing officer has failed to make compliance of the judgment of Hon'ble Jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra), is not acceptable, as the assessing officer, has taken the view which is sustainable in the eye of law, based on the old judgements of the jurisdictional High Court of Gujarat, which are direct judgements on the issue under consideration, hence, there is no violation of judicial discipline by the assessing officer.*

36. Now, we have to deal other arguments of the ld. D.R. for the revenue one by one, are as follows:

(i) The ld. D.R. for the Revenue argued that recently the Jurisdictional Tribunal, Rajkot in the case of Lodhika Seva Sahakari Mandali vs. PCIT, in ITA No. 184/Rjt/2022 for assessment year 2017-18 vide order dated 5th April, 2014 wherein the Jurisdictional Co-ordinate Bench of Rajkot has considered the judgement of Hon'ble Gujarat High Court in the case of Katlary Karayana (supra) and adjudicate the issue in favour of the assessee. In this context, we state that the decision of the Co-ordinate Bench of Rajkot in the case of Lodhika Seva Sahakari Mandali (supra), no doubt, it is against the assessee and in favour of the Revenue, however, we note that it is not a speaking order. We find that the Co-ordinate Bench, in Lodhika Seva Sahakari Mandali (supra) did not narrate the facts properly and the facts narrated in Lodhika Seva Sahakari Mandali (supra) are not similar to the facts as that of the assessee under consideration. We also find that in the decision of the Co-ordinate Bench in case of Lodhika Seva Sahakari Mandali (supra), there was no assistance from the A.R. of the assessee, as this order was heard by the Co-ordinate Bench ex parte and there is no representation by the A.R. of the assessee, therefore, the Bench was not informed about the correct ratio laid down by the Hon'ble Jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra). The adjudication was done by the Co-ordinate Bench, based on written submission of assessee. Therefore, the judgment of the Co-ordinate Bench in the case of Lodhika Seva Sahakari Mandali (supra) is distinguishable on these facts, hence we do not accept the ratio laid down in the said decision.

(ii) The second argument made by Ld. CIT-DR that one has to follow the judicial discipline and judgment of the Jurisdictional High Court should be given importance and it should be followed invariably, for that, the ld. D.R. for the Revenue relied on the judgment of Hon'ble Bombay High Court in the case of CIT vs. Thane Electricity Supply Ltd.(1994) 206 ITR 727. In this context, we state that assessing officer has thoroughly

followed the judicial discipline, as we have explained above that the judgment of the Hon'ble Jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra) does not apply to the assessee under consideration and therefore the view taken by the assessing officer is plausible view and sustainable in law. Therefore, in fact, the assessing officer has followed the judicial discipline as mentioned in the judgement of Thane Electricity Supply Ltd. (supra), therefore, the plea raised by the ld. D.R. for the Revenue is hereby rejected.

(iii) The third argument advanced by Ld. CIT-DR for the Revenue is that assessing officer, no doubt, issued the notice u/s. 142(1) of the Act to conduct inquiry and assessee has submitted the reply in response to that notice, however, the assessing officer has not applied his mind that deduction u/s 80P(2)(d) of the Act is not available in respect of interest received from co-operative bank. In this context, we state that assessing officer after taking the details and evidences from the assessee, has examined thoroughly and taken a plausible view that deduction u/s. 80P(2)(d) of the Act is available to the assessee under consideration in view of the old decisions of the Hon'ble Gujarat High Court in the case of Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and in the case of Surat Vankar Sahakari Sangh Ltd. (supra), as these judgments were not overruled by the Hon'ble Gujarat High Court by constituting larger Bench and not distinguished in the latest judgment in the case of Katlary Karayana (supra).

(iv) The fourth argument of Ld. CIT-DR is that Hon'ble Gujarat High Court in the case of Katlary Karayana (supra) has followed the judgment of Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd., 108 Taxman 282 (SC) which clearly states that co-operative banks are not species of genus of co-operative society. In this context, we note that the judgment of Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd(supra) is in the context of where the assessee retained sale proceeds of members whose produce was marketed by it and since funds created by such retention were not required immediately for business purpose, it invested same in specified securities and earned interest thereon. Therefore, interest earned by assessee would come in category of 'Income from other sources' and taxable under section 56 of the Act and would not qualify for deduction as business income under section 80P(2)(a)(i) of the Act. Therefore, the above judgement, of Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd (supra) does not relate to section 80P (2) (d) of the Act, rather it relates to section 80P(2)(a)(i) of the Act, hence, does not apply to the assessee under consideration.Therefore, we find that the above decision in the case of Totgars Co-operative Sale Society Ltd(supra) is in the context of Section 80P(2)(a)(i) of the Act and is distinguishable and has been distinguished by lower courts in many judgements which are reproduced below:

- *(a) Peroorkada Service Co-operative Bank Ltd. (2022) 442 ITR 141 (Kerala HC)*
- *(b) Totagars Co-operative Sale Society (2017) 392 ITR 74 (Karnataka HC)*
- *(c) Vavveru Co-operative Rural Bank Ltd. (2017) 88 taxmann.com 728 (Andhra Pradesh and Telangana HC)*
- *(d) State Bank of India vs Commissioner of Income-tax (2016) 389 ITR 578 (Guj. HC);*
- *(e) The Uttar Gujarat Uma Co-op. Credit Society Ltd. in ITA Nos. 1670, 1671/A/2018 dated 28-02-2019 (Ahmedabad Trib.)*

(v) The fifth argument advanced by Ld. CIT-DR, is that the Co-ordinate Bench of ITAT, Rajkot, (Tribunal) has not considered the ratio of the Hon'ble jurisdictional High Court in the case of Katlery Karyana (supra), in the following recent judgments of ITAT, Rajkot, which are reproduced below:

(i) Kutch District Co-operative Milk Producers Union Ltd., 159 taxmann.com 347, order dated 29.01.2024
(ii) Rajkot Jilla Sahakari Kharid Vechan Sangh Limited, in ITA No.49/Rjt/2022, order dated 09.208.2023
(iii)Shree Keshav Co-operative Credit Society Ltd., in ITA No.26/Rjt/2022, order dated 31.05.2022

The ld DR pointed out that in accordance with the decision of Hon`ble Supreme Court in the case of ACIT, Rajkot vs. Saurashtra Kutch Stock Exchange Ltd, dated 15/09/2008, (2008) 173 Taxman 322 (SC), wherein amongst others, it was held that non-adherence to orders of Jurisdictional High Court and Supreme Court is a mistake apparent on record, therefore, the above orders of the jurisdictional Tribunal require rectification under section 254 (2) of the Act. In this regard, we find that the Co-ordinate Bench of Rajkot, in the above decisions, has clearly considered the old judgments rendered by the Hon'ble Jurisdictional, Gujarat High Court, namely, (i) Surat Vandar Sahakari Sangh Ltd(Supra) and (ii) Sabarkantha District Co-operative Milk Producers' Union Ltd. (supra), these two old judgements, were not overruled and distinguished by the jurisdictional High Court of Gujarat, in the latest judgement of Hon`ble Gujarat High Court in the case of Katlary Karayana (supra), therefore, ratio of these two old judgements are equally applicable to the assessee under consideration. Moreover, the latest judgement of Hon`ble Gujarat High Court, in the case of Katlary Karayana (supra) is in the context of section 194A of the Act and section 147 of the Act, wherein the Hon'ble High Court has examined whether income has escaped assessment or not. Therefore, we note that above decisions of the Co-ordinate Bench, are speaking and reasoned decisions and hence, do not require rectification under section 254(2) of the Act, as judicial discipline has been observed in these above decisions, by following the old jurisdictional, Gujarat High Court judgements(supra), which are direct on the issue under consideration, hence we reject the plea taken by ld DR for the revenue.
37. We also state that the Co-ordinate Bench of ITAT, Banglore and Co-ordinate Bench of ITAT, Jaipur, have also followed the old judgments of the Hon'ble Gujarat High Court, as noted above, and held that interest received from Cooperative Banks are allowable deduction under section 80P(2) (d) of the Act:

(i) Totagars Co-operative Sale Society Ltd., in ITA Nos.376 to 379/Bang/2023, dated 18.07.2023
(ii) Jhunjhunu KaryaVikryaSahakari Samiti Ltd., ITA No. 150/Jp/2022

We also note that the other Hon'ble High Courts, in the following cases, have upheld the same view, as the view taken by the Hon'ble Gujarat High Court in the old Judgments (supra), that interest received from Cooperative Banks are allowable deduction under section 80P(2) (d) of the Act:

(i) Totagars Co-operative Sale, 79 taxmann.com 169 (Karnataka)
(ii) Thorapadi Urban Co-operative Credit Society Ltd., 156 taxmann.com 419 (Mad.)

*38. **Final word:***

Thus, we note that the judgement of the Hon'ble Supreme Court in the case of Tatgars Society Ltd. (supra) does not apply to the assessee under consideration, as this judgment is in the context of Section 80P(2)(a)(i) of the Act. We find that the assessing officer, during the assessment proceedings has followed the judgment of the Hon'ble Jurisdictional Gujarat High Court in the case of Sabarkantha District Co-operative Milk Producers Union Ltd (supra) and in the case of Surat Vankar Sahakari Sangh Ltd, (supra) has taken a plausible view, which is sustainable in the eye, law. The assessing officer has not considered the judgement of Hon'ble Gujarat High Court in the Katlary Karayana (supra), as the ratio laid down by the Hon'ble Gujarat High Court in the case of Katlary Karayana (supra)is not applicable to the assessee, under consideration and hence there is no violation of the principles laid down by the Hon'ble Supreme Court in the case of Saurastra Kutch Stock Exchange Ltd. (supra).We are of the view that the judgement of the Hon'ble Jurisdictional High Court of Gujarat in the case of Katlary Karayana (supra), is not binding on the assessing officer, as we have stated that this judgement is in different context of section 194A of the Act and specially it is in the context of income escaped assessment u/s 147 of the Act, therefore, the ratio of the judgement does not apply to the assessee, under consideration. So far as the judicial discipline is concerned, there is no violation of the judicial discipline, by the assessing officer. Considering the above facts and circumstances, we state that during the assessment proceedings, the assessing officer made enough inquiry by issuing notice u/s 142(1) of the Act and in response to the notice of the assessing officer, the assessee submitted details, documents and explanation before the assessing officer and the assessing officer having examined the details and documents of the assessee, has taken the plausible view, which is sustainable in the eyes of law, as we have explained above. The Ld. PCIT while exercising the jurisdiction u/s 263 of the Act, also referred Clause (d) of Explanation – 2 of Section 263 of the Act wherein it is stated that if the order has not been passed by the Assessing Officer in accordance with any decision which is prejudicial to the assessee and rendered by the jurisdictional High Court or Supreme Court in the case of assessee or any other person. However, as we have explained above that the said judgment delivered by the Hon'ble jurisdictional Gujarat High Court in the case of Katlery Karayana (supra), does not apply to the assessee under consideration, hence Clause (d) of Explanation – 2 of Section 263 of the Act, does not apply to the assessee. Therefore, considering these facts, the Assessing Officer has taken a plausible view which is sustainable in the eye of law, as per the ratio laid down by the Hon'ble Apex Court in the case of Malabar Industries (supra).Since the order of the Assessing Officer cannot be held to be erroneous as well as prejudicial to the interest of the revenue, in the facts and circumstances, narrated above, the usurpation of jurisdiction exercising revisional jurisdiction by the Principal CIT is ''null'' in the eyes of law and, therefore, we are inclined to quash the very assumption of jurisdiction to invoke revisional jurisdiction u/s 263 by the Principal CIT. Therefore, we quash the order of the Principal CIT dated 10.03.2023, being ab initio void.

39. In the result, appeal filed by the assessee is allowed."

8. We note that assessee had claimed deduction of Rs.2,37,53,299/- and Rs.1,58,51,610/-u/s 80P(2)(a)(i) and/or 80P(2)(d) of the Act for A.Y. 2018-19 and A.Y. 2020-21 respectively. However, the same was disallowed by the

assessing officer, for the both assessment years by holding that interest earned from fixed deposits made with Rajkot Nagrik Sahakari Bank Ltd. is not allowable as deduction either under 80P(2)(a)(i) or u/s 80P(2)(d) of the Act. We note that deductions under section 80P(2)(d) of the Act for A.Y. 2018-19 and A.Y. 2020-21 are allowable to the assessee in view of the decision of the Division Bench of this Tribunal in the case of Shri Avadh Nagarik Sahakari Mandli Ltd (supra).

We also note that the issue in these appeals is also covered by the judgements of Hon'ble jurisdictional Gujarat High Court, in following cases:

(i)The Judgement of Hon'ble jurisdictional Gujarat High Court, in the case of Shree Aradhana Urban Co-op. Credit Society Ltd. (2025) 172 taxmann.com 537 (Guj. HC) wherein it was held that co-operative banks are primarily co-operative societies and interest earned on deposits with such co-operative bank is exempt u/s 80P(2)(d) of the Act.

(ii) The Judgement of Hon'ble jurisdictional Gujarat High Court, in the case of Sabarkantha District Co-operative Milk Producers Union Ltd. in Tax Appeal No. 473 of 2014 dated 16-06-2014;

9. In view of binding decisions stated above, the claim of deductions u/s 80P(2)(d) of the Act made by the assessee deserves to be allowed for both assessment years. Accordingly, respectfully following the decision of the Co-ordinate Bench in the case of Shri Avadh Nagarik Sahakari Mandli Ltd (supra), and respectfully following the judgements of Hon'ble jurisdictional High Court of Gujarat (supra), we direct the assessing officer to allow the claim of the assessee under section 80P(2)(d) of the Act, for both assessment years, in respect of the amount of Rs. 2,37,53,299/- and Rs. 1,58,51,610/-, for assessment year (A.Y.) 2018-19 and A.Y. 2020-21 respectively.

10. In the result, both appeals filed by the assessee, are allowed

Order is pronounced in the open court on 12/02/2026.

Sd/-	**Sd/-**
(Dr. Dinesh Mohan Sinha)	**(Dr. Arjun Lal Saini)**
न्यायिक सदस्य/ Judicial Member	**लेखा सदस्य/Accountant Member**

Rajkot
Date: 12/02/2026.

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

- अपीलार्थी/ The Assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, Rajkot
- गार्ड फाईल/ Guard File

By order,

// **TRUE COPY** //

Assistant Registrar/Sr.PS/PS
ITAT, Rajkot