

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA Nos.908 & 901/Srt/2025
(Assessment Years: 2011-12 & 2014-15)

Deputy Commissioner of Income Tax, Circle 2(1)(1) Surat.	Vs.	Shree Sayan Vibhag Sahakari Khand Udyog Mandli Ltd., At & Post Sayan, Ta. Olpad, Sayan, Dist. Surat-394130. [PAN : AAAAS4058 F]
(Appellant)	..	(Respondent)
Appellant by :	Shri Mukesh Jain, CIT(DR)	
Respondent by:	Shri Akshay M Modi, AR	
Date of Hearing	22.01.2026	
Date of Pronouncement	27.02.2026	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:-

The captioned two appeal have been filed at the instance of the Assessee against the separate order dated 17.06.2025 & 18.06.2025 passed by the National Faceless Appeal Centre(NFAC)/CIT(A), arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Years 2011-12 & 2014-15. Since the issues raised in these two appeal are identical, we are extracting the ground of appeal raised in ITA No.908/Srt/2025 for the purpose of adjudication.

ITA No.908/Srt/2025 for AY 2011-12

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

1. On the facts and circumstances of the case and in law, the Learned CIT(A) has erred in deleting the addition of Rs.88,51,47,307/-made under section 37(1) of the Income Tax Act, ignoring the fact that the assessee failed to produce a copy of the order(s) or other legal instruments issued by the Government regarding price fixation-based on which any excess price was paid for the purchase of sugarcane over and above the Statutory Minimum Price (SMP)-which is mandatory for the purpose of income re-computation under Section 155 of the Income-tax Act.

2. On the facts and circumstances of the case and in law, the Learned CIT(A) has erred in deleting the addition of Rs.47,65,108/ made on account of receipts under different schemes viz Kalyan Fund, Road Development Fund, Land Development Fund & Charitable Trust Fund even though the assessee failed to establish the said fund was utilized during the year for the benefit of members & the society.

3. On the facts and circumstances of the case and in law, the Learned CIT(A) has erred in deleting the addition of Rs. 4,02,60,235/- made on account of disallowance of deduction claimed u/s 80P(2)(d) of the Act by ignoring the decision of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. reported in 322 ITR 283, wherein it was held that Interest earned from investments made in any bank not being Co-operative society, is not deductible under section 80P(2)(d) of the Act.

4. On the facts and circumstance of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.4,02,60,235/made on account of disallowance of deduction claimed u/s.80P(2)(d) of the income-tax act, without appreciating that the interest received by the assessee co-operative society from the Surat District Co-Operative Bank limited is not eligible for deduction u/s.80P(2)(d) of the income-tax, as the said bank is not a co-operative society as laid down u/s.80P(4) of the Act

5. On the basis of the facts and circumstances of the case and in law, the ld. CIT(A) ought to have upheld the order of the Assessing Officer.

6. It is therefore prayed that the order of Id. CIT(A) may kindly be set aside that of the Assessing Officer be restored.

3. The brief facts of the case are that assessee is a Co. Operative Society registered under the Gujarat Co. operative Societies Act, 1961. The assessee is engaged in the activity of manufacturing and selling/marketing of sugar and its by-products like molasses etc. from the sugarcane. The assessee society has filed its return of income for the year under appeal on 27.09.20211 showing the total income at Rs. Nil. The Assessment was completed on 28.03.2014 vide order u/s.143(3) of the Act assessing the total income at Rs. 89,74,95,836/- after making an addition on account of disallowance of portion of sugarcane purchase

price paid to the cane producers / members to the extent of Rs. 88,51,47,307/- treating it as distribution of profits and as an expenditure not related to the business activity carried out by the appellant society. The AO further made the addition of Rs. 17,86,915/- on account of Kalyan Fund, addition of Rs. 11,91,277/- on account of Road Development Fund, addition of Rs. 5,95,639/- on account of Land Development Fund, addition of Rs. 11,91,277/- on account of Charitable Trust Fund, addition on account of denial of deduction claimed u/s 80P(2)(d) for Rs.4,02,59,235/- & addition of Rs. 1,57,55,966/- u/s 145A of the Act.

4. The assessee filed appeal before the Ld.CIT(A). The Ld.CIT(A) partly allowed the appeal of the assessee.

5. The Ld.DR submitted that as regard to ground no.1, the Learned CIT(A) has erred in deleting the addition of Rs.88,51,47,307/- made under section 37(1) of the Income Tax Act, ignoring the fact that the assessee failed to produce a copy of the order(s) or other legal instruments issued by the Government regarding price fixation-based on which any excess price was paid for the purchase of sugarcane over and above the Statutory Minimum Price (SMP)- which is mandatory for the purpose of income re-computation under Section 155 of the Income-tax Act. With regard to ground no. 2, the Ld.DR submitted that Ld.CIT(A) has erred in deleting the addition of Rs.47,65,108/ made on account of receipts under different schemes viz Kalyan Fund, Road Development Fund, Land Development Fund & Charitable Trust Fund even though the assessee failed to establish the said fund was utilized during the year for the benefit of members & the society. The Ld.DR further submitted with regard to ground no.3, that Ld. CIT(A) has erred in deleting the addition of Rs.4,02,60,235/made on account of disallowance of deduction claimed u/s.80P(2)(d) of the income-tax act, without appreciating that the interest received by the assessee co-operative society from the Surat District Co-Operative Bank limited is not eligible for deduction u/s.80P(2)(d) of the income-tax, as the said bank is not a

- 4 -

co-operative society as laid down u/s.80P(4) of the Act. Regarding ground no.4, the Ld.DR submitted that the Ld. CIT(A) has erred in deleting the addition of Rs.4,02,60,235/made on account of disallowance of deduction claimed u/s.80P(2)(d) of the income-tax act, without appreciating that the interest received by the assessee co-operative society from the Surat District Co-Operative Bank limited is not eligible for deduction u/s.80P(2)(d) of the income-tax, as the said bank is not a co-operative society as laid down u/s.80P(4) of the Act.

6. The Ld AR relied on the order of the Ld.CIT(A)

7. We have heard both the parties and perused the material available on record. At the time of hearing, the Ld.AR has furnished the details of payments made by Shree Sayan Vibhag Sahakari Khand Udyod Mandali Ltd. to the members as well as nominal members in bifurcation which are as follows:

SHREE SAYAN VIBHAG SAHAKARI KHAND UDYOG MANDLI LTD.					
DETAILS OF SUGARCANE PAYMENT IN FINANCIAL YEAR 2010-2011 (A.Y-2011-2012)					
SR. NO	PARTICULAR	SUGARCANE M.T	FINAL CANE PRICE (FCP)	AMOUNT	TOTAL AMOUNT
1	MEMBER'S SUGARCANE PAYMENT APR-MAY - 2010 (CRUSHING SEASON 2009-10)	238651.785	3129.000	746741435.27	
2	MEMBER'S SUGARCANE PAYMENT OCT-2010 TO JAN-2011 (CRUSHING SEASON 2010-11)	602918.030	2104.000	1268539535.12	
3	MEMBER'S SUGARCANE PAYMENT FEB-2011 (CRUSHING SEASON 2010-11)	172775.105	2194.000	379068580.37	
4	MEMBER'S SUGARCANE PAYMENT OCT-2010 TO JAN-2011 (CRUSHING SEASON 2010-11)	159916.230	2230.000	356613192.90	2750962743.66
	LESS : (-)				
1	MEMBER'S SUGARCANE CRUSHING IN OTHER SUGAR (CRUSHING SEASON 2009-10)	6795.635		19152216.00	
2	MEMBER'S SUGARCANE CRUSHING IN OTHER SUGAR (CRUSHING SEASON 2010-11)	84049.365		155039569.00	
3	MEMBER'S BURNT SUGARCANE DEDUCTION			44101562.00	
4	MEMBER'S ADMIN EXP.			1464768.00	
5	DEDUCTION DUE TO LESSOR QUALITY OF SUGARCANE (CRUSHING SEASON 2009-10)			584171.27	
6	DEDUCTION DUE TO LESSOR QUALITY OF SUGARCANE (CRUSHING SEASON 2010-11)			31418062.39	251760348.66
	MEMBER'S SUGARCANE PAYMENT TOTAL-> (A)	1083416.150			2499202395.00
1	NOMINAL MEMBER'S SUGARCANE PAYMENT OCT-2010 TO MAR-2011 (CRUSHING SEASON 2010-11)	0.000		0.00	
	NOMINAL MEMBER'S SUGARCANE PAYMENT TOTAL-> (B)	0.000			0.00
	FINANCIAL 2010-11 SUGARCANE NET PAYMENT PAID (A+B)->	1083416.150			2499202395.00

SHREE SAYAN VIBHAG SAHAKARI KHAND UDYOG MANDLI LTD.					
DETAILS OF SUGARCANE PAYMENT IN FINANCIAL YEAR 2013-2014 (A.Y-2014-2015)					
SR. NO	PARTICULAR	SUGARCANE M.T	FINAL CANE PRICE (FCP)	AMOUNT	TOTAL AMOUNT
1	MEMBER'S SUGARCANE PAYMENT APR-2013 (CRUSHING SEASON 2012-13)	55359.060	3559.866	197070848.58	
2	MEMBER'S SUGARCANE PAYMENT OCT-2013 TO JAN-2014 (CRUSHING SEASON 2013-14)	500360.505	2951.000	1476563850.26	
3	MEMBER'S SUGARCANE PAYMENT FEB-2014 (CRUSHING SEASON 2013-14)	152417.920	3011.000	458930357.12	
4	MEMBER'S SUGARCANE PAYMENT MAR-2014 (CRUSHING SEASON 2013-14)	154488.575	3051.000	471344642.33	2603909698.28
	LESS : (-)				
1	MEMBER'S SUGARCANE CRUSHING IN OTHER SUGAR (CRUSHING SEASON 2012-13)	935.000		2864398.29	
2	MEMBER'S SUGARCANE CRUSHING IN OTHER SUGAR (CRUSHING SEASON 2013-14)	627.000		1851000.00	
3	MEMBER'S BURNT SUGARCANE DEDUCTION			22346372.90	
4	MEMBER'S ADMIN EXP.			816374.72	
5	DEDUCTION DUE TO LESSOR QUALITY OF SUGARCANE (CRUSHING SEASON 2013-14)			42129224.44	
6	MEMBER'S MACHINE CUT KAPAT			4625947.15	74633317.50
	MEMBER'S SUGARCANE PAYMENT TOTAL-> (A)	861064.060			2529276380.78
2	NOMINAL MEMBER'S SUGARCANE PAYMENT OCT-2013 TO MAR-2014 (CRUSHING SEASON 2013-14)	0.000		0.00	0.00
	NOMINAL MEMBER'S SUGARCANE PAYMENT TOTAL-> (B)	0.000			0.00
	FINANCIAL 2013-14 SUGARCANE NET PAYMENT PAID (A+B)->	861064.060			2529276380.78

8. From the perusal of these details it is evident that the payments were to the members only and the sugar purchase price paid to producers/members to the extent of Rs.88,52,47,307/- in AY 2011-12 was rightly distributed among the members of the society and cannot be denied deduction u/s.80P(2)(d) of the Act. The Ld.CIT(A) has rightly given the relief to the assessee and there is no need to interfere with the findings of the Ld. CIT(A). Hence, the appeal the Revenue is dismissed.

ITA No. No.901/Srt/2025 for AY 2014-15

9. As regard to the AY 2014-15, the facts are identical to that of AY 2011-12 therefore there is no need to interfere with the findings of the

- 6 -

Ld.CIT(A) in the AY 2014-15 as well. Accordingly, the appeal of the Revenue is dismissed.

10. In the result, both the appeals filed by the Revenue are dismissed.

The order is pronounced in the open Court on 27.02.2026.

**Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

(True Copy)

Surat; Dated 27.02.2026

*mv

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , /DR,ITAT, Surat,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Surat