

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.109/RPR/2026  
निर्धारण वर्ष / Assessment Year: 2016-17**

Sewa Sahkari Samiti Sirri,  
Village and Post:Sirri,  
Tehsil Gunderdehi,  
District Balod, Chhattisgarh,  
491221  
PAN: AAGAS8961H

.....अपीलार्थी / Appellant

**बनाम / V/s.**

ITO, Ward-1(3), Bhilai,  
Risali Bhilai, Bhilai Nagar,  
Chhattisgarh, 490006

.....प्रत्यर्थी / Respondent

Assessee by : Mr. Vinit Kumar Jain, CA  
Revenue by : None (Petition filed)

सुनवाई की तारीख / Date of Hearing : 27.02.2026  
घोषणा की तारीख / Date of Pronouncement : 27.02.2026

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Commissioner of Income Tax (Appeals) [CIT(A)], Bengaluru dated 30.12.2025 for the assessment year 2016-17 as per the grounds of appeal on record.

**2.** That at the time the matter was called for hearing, the Ld. Sr. DR was absent and there was none present for the department. However, a CL application has been filed by the Ld. Sr.DR. Consequent thereof, the Registry ITAT, Raipur had written to Commissioner to arrange an alternative for representing the matters on behalf of the Department before the Bench. However, no such arrangements have been made by the Commissioner. The Bench is therefore constrained to proceed with the matter after hearing the submissions of the Ld. AR and the materials available on record and accordingly, the matter heard on merits.

**3.** Perusing the grounds of appeal as assailed by the Ld. Counsel, the first and foremost contention is that the assessee is a Credit Co-operative Society extending credit facilities to its members only and therefore, it is

not a Credit Co-operative Bank. The clear cut distinction regarding a Credit Co-operative Bank and Credit Co-operative Society is that the Credit Co-operative Society extends the credit facilities in the regular course of business only to its member whereas the Credit Co-operative Bank extends credit facilities even to the outside persons who are not necessarily member of such Co-operative Bank. In this regard, the contention raised by the Ld. Counsel that they are outside the purview of the rigors u/s 80P Clause 4 of the Act which, therefore, does not apply to them and they are entitled for exemption u/s 80P(2))a)(i) regarding the interest earned from other Co-operative Bank. That on perusal of the case records there is no denial by any of the orders of the subordinate authorities that the assessee was a Credit Co-operative Society and not a Credit Co-operative Bank. Also, there is no denial and rather admitted fact from the Department itself that the assessee is a Credit Co-operative Society, the assessee is outside the purview of Sec. 80P clause 4 of the Act. The other contentions that whether the assessee is entitled to the exemption u/s 80P(2)(a)(i) again the assessee is extending the credit facilities to the members in the regular course of business and as earlier examined since the status is of a credit co-operative society, the matter is squarely covered by a decision of this Bench in the case of **Sewa Sahakari Samiti Latabod vs. ITO (E), Ward-1** dated 05.02.2026. The relevant paras are extracted as follows:

“2. Brief facts in this case are that the assessee Sewa Sahakari Samiti Latabod is a Primary Agricultural Cooperative Society registered vide Registration No.560, dated 16.09.1960. The primary activity of the Cooperative Society are viz. (i) carrying on the business of banking or providing credit facilities to its members; (ii) the marketing of agricultural produce (paddy) grown by its member farmers; and (iii) purchase of agricultural implements, seeds, manure, fertilizers and pesticides or other articles intended for agriculture for the purpose of supplying them to its members.

3. That explaining the business activities, the Ld. Counsel for the assessee submitted that the assessee society is extending credit facilities to its members and surplus amount is placed as term deposit with various other cooperative societies and cooperative banks wherein the said society is earning interest income. Elaborating on the same, the Ld. Counsel submitted that as an Agricultural Credit Cooperative Society it is carrying on the business of providing credit facilities to its members, earns profits and gains of business from such activities and the interest income so derived or the capital, if not immediately required to be lent to the members, instead of keeping the said amount idle, they deposit the amount in bank so to earn interest and the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The Ld. Counsel further submitted that the A.O made the addition treating the assessee as Cooperative bank. However, from the functioning of the assessee society, it is discernable that it is an Agricultural Credit Cooperative Society and there is difference between credit cooperative society and cooperative bank wherein so far as the cooperative bank is concerned, they extends credit facilities to public at large whereas, the credit cooperative society i.e. the assessee which is earning profits and gains of business by providing credit facilities to its members only.

4. The first issue to be decided is whether in these facts and circumstances, interest income earned by this Agricultural Credit Cooperative Society from other cooperative credit societies/cooperative banks would be exempted u/s.80P(2)(a)(i) & u/s. 80P(2)(d) of the Income Tax Act, 1961 (for short 'the Act)?

5. In this scenario, I find that the Hon'ble Apex Court in the case of Pr. CIT V. Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Ltd. (2023) 454 ITR 117 (SC) has held and observed that primary Agricultural Credit Societies cannot be termed as Co-operative Banks under the Banking Regulation Act and therefore, such credit societies

*shall be entitled to exemption u/s.80P(2) of the Act and thereby, dismissed the appeal of the Revenue. The relevant extract of the aforesaid judgment are extracted as follows:*

*"3. Apart from the fact that against the relied upon decision in the case of M/s. Quepem Urban Co-operative Credit Society Ltd. (supra), the Special Leave Petition has been dismissed, having heard learned counsel appearing on behalf of the respective parties, the issue involved in the appeal is squarely covered against the Revenue in view of the decision of this Court in Mavilayi Service Cooperative Bank Limited and Others Vs. Commissioner of Income Tax, Calicut and Another (2021) 7 SCC 90. This Court, in the aforesaid decision has specifically observed and held that primary Agricultural Credit Societies cannot be termed as Co operative Banks under the Banking Regulation Act and, therefore, such credit societies shall be entitled to exemption under Section 80(P)(2) of the Income Tax Act, 1961.*

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

*5. There are concurrent findings recorded by CITA, ITAT and the High Court that the respondent/Assessee cannot be termed as Banks/Cooperative Banks and that being a credit society, they are entitled to exemption under Section 80(1)(2) of the Income Tax Act. Such finding of fact is not required to be interfered with by this Court in exercise of powers under Article 136 of the Constitution of India. Even otherwise, on merits also and taking into consideration the CBDT Circulars and even the definition of Bank under the Banking Regulation Act, the respondent/Assessee cannot be said to be Co-operative Bank/Bank and, therefore, Section 80(1)(4) shall not be applicable and that the respondent/Assessee shall be entitled to exemption/benefit under Section 80(P)(2) of the Income Tax Act.*

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

*7. The Appeal is accordingly dismissed. No costs."*

*6. Similarly, the very ethos of the business conducted by the Primary Agricultural Credit Co-operative Society has been specifically*

*illustrated in the judgment of the Hon'ble High Court of Karnataka in the case of Tumkur merchants Souharda Credit Co-operative Ltd. Vs. Income Tax Officer, Ward-V, Tumkur, (2015) 230 Taxman 309 (Kar.) wherein the Hon'ble High Court has held and observed as follows:*

*"8. Therefore, the word "attributable to is certainly wider in import than the expression "derived from. Whenever the legislature wanted to give a restricted meaning, they have used the expression "derived from". The expression "attributable to being of wider import, the said expression is used by the legislature whenever they intended to gather receipts from sources other than the actual conduct of the business. A Cooperative Society which is carrying on the business of providing credit facilities to its members, earns profits and gains of business by providing credit facilities to its members. The interest income so derived or the capital, if not immediately required to be lent to the members, they cannot keep the said amount idle. If they deposit this amount in bank so as to earn interest, the said interest income is attributable to the profits and gains of the business of providing credit facilities to its members only. The society is not carrying on any separate business for earning such interest income. The income so derived is the amount of profits and gains of business attributable to the activity of carrying on the business of banking or providing credit facilities to its members by a co-operative society and is liable to be deducted from the gross total income under Section 80P of the Act.*

*9. In this context when we look at the judgment of the Apex Court in the case of M/s. Totgars Co-operative Sale Society Ltd., on which reliance is placed, the Supreme Court was dealing with a case where the assessee-Cooperative Society, apart from providing credit facilities to the members, was also in the business of marketing of agricultural produce grown by its members. The sale consideration received from marketing agricultural produce of its members was retained in many cases. The said retained amount which was payable to its members from whom produce was bought, was invested in a short-term deposit/security. Such an amount which was retained by the assessee Society was a liability and it was shown in the balance sheet on the liability side. Therefore, to that extent, such interest income cannot be said to be attributable either to the activity mentioned in Section 80P(2)(a)(i) of the Act or under Section 80P(2)(a)(iii) of the Act. Therefore in the facts of the said case, the Apex Court held the assessing officer was right in taxing the interest income indicated above under Section 56 of the Act. Further they made it clear that they are confining the*

said judgment to the facts of that case. Therefore it is clear, Supreme Court was not laying down any law.

10. In the instant case, the amount which was invested in banks to earn interest was not an amount due to any members. It was not the liability. It was not shown as liability in their account. In fact this amount which is in the nature of profits and gains, was not immediately required by the assessee for lending money to the members, as there were no takers. Therefore they had deposited the money in a bank so as to earn interest. The said interest income is attributable to carrying on the business of banking and therefore it is liable to be deducted in terms of Section 80P(1) of the Act. In fact similar view is taken by the Andhra Pradesh High Court in the case of CIT v. Andhra Pradesh State co-operative Bank Ltd., [2011] 200 Taxman 220/12taxmann.com 66. In that view of the matter, the order passed by the appellate authorities denying the benefit of deduction of the aforesaid amount is unsustainable in law. Accordingly it is hereby set aside. The substantial question of law is answered in favor wour of the assessee and against the revenue. Hence, we pass the following order."

7. Similarly, the ITAT, SMC Bench, Raipur in the case of Shri Durga Gram Service Co-Operative Society Limited Va. ITO, Ward-Bilaspur, ITA No.535/RPR/2025, dated 09.10.2025, on the similar issue has held and observed as follows:

"8. The other addition made by the A.O is with regard to interest income earned from State Co-operative Dank which has been disallowed u/s.80P(2)(d) of the Act. The A.O held of the Act, a Co-operative Credit that as per Section 80P(2)(d) of society is qualified for deduction with regard to any income earned by way of i of interest derived from investments with any other Co-operative societies. However, interest income earned from any other Co-operative bank shall not qualify for deduction u/s.50P(2)(d) of the Act.

9. Coming to the issue of deduction u/s. 80P(2)(d) of the Act, it is crystal clear from the aforesaid provision that though co-operative banks, other than primary agricultural credit society or a primary co-operative agricultural and rural development bank, are not eligible for deduction pursuant to insertion of section 80P(4) w.e.f. 1.4.2007, but this provision does not deny the otherwise eligibility u/s.80P(2)(d) of the Act of a co-operative society on interest income on investments/deposits parked with w a co-operative bank, which is a

*registered co-operative society as per section 2(19) of the Act, defining co-operative society to mean a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the time being in force. The assessee is also a Cooperative society registered, hence, qualify for grant of deduction u/s. 80P(2)(d) of the Act. The aforesaid view has been held by the Co-ordinate Bench of the Tribunal, Pune in the case of Marathawada Krishi Vidyapeeth Karmachari Sahakari Patsanstha Ltd. & Anr. Va. Pr. Commissioner of Inocme Tax & Anr., (2022) 66 CCH 0402. Similar view has been taken by the ITAT, "SMC Bench, Panaji in the case of the Sesa Goa Employees Coop. Credit Society Ltd. Vs. ACIT, Circle-2(1), Panaji, ITA No.203/PAN/2019, dated 16.11.2022.*

10. *Further, in the case of the Bhandari Co-op. Credit Society Ltd. Vs. ITO, Ward-1(5), Panaji, ITA Nos. 101 & 102/PAN/2023, dated 20.09.2023, the issue was with regard to deduction claimed u/s. 80P(2)(a)(i) as well as under the provisions of section 80P(2)(d) of the Act for interest income earned from investment with Co-operative banks. The Tribunal had referred to the case of Lokmangal Nagri Sahakari Path Sanstha Maryadit Vs. PCIT in ITA No.231/PUN/2022 for A.Y. 2017-18, order dated 29.11.2022 a/w. other judicial pronouncements which supports the assessee's claim. The Tribunal in the aforesaid case held that the interest income earned by the Co-operative society from the Co-operative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. Respectfully following the aforesaid decisions, on the same parity of reasoning, this ground of appeal stands allowed."*

8. *Respectfully following the aforesaid judicial pronouncements on this issue, I am of the view that since the Primary Agricultural Credit Cooperative Societies are not bank, hence, they are entitled to claim deduction regarding interest income earned u/s. 80P(2)(a)(i) & U/s. 80P(2)(d) of the Act. Accordingly, Grounds of appeal No.1, 3 & 4 raised by the assessee are allowed."*

4. The other contention that has been raised is that the deduction u/s 80P(2)(a)(iii) that has been disallowed to the assessee. Since according to the revenue, the assessee is not "Marketing" the agricultural produce, however, as contended by the Ld. Counsel that such marketing cannot be

done by the Credit Co-operative Society itself as a legal entity without the support and help of the members of the society and in this case, the society is enabling the marketing of paddy through its members and it has been held that the interpretation of word “Marketing” of agricultural produce also includes enabling marketing of such agricultural produce for the simple fact that the objective of the provision can only be fulfilled if it is interpreted in this manner itself. Since, it cannot be assumed for the artificial legal entity to do the marketing itself without the support of its members and therefore, once it is admitted that the society is enabling the marketing of paddy through its members that suffices requirements of sec. 80P(2)(a)(iii). The same view has been taken in the case of **Sewa Sahakari Samiti Latabod** (supra), which reads as follows:

“9. Other issue pertains to deduction u/s.80P(2)(a)(iii) of the Act as per Ground of appeal No.2 i.e. whether the deduction is allowable only in respect of marketing of agricultural produce grown by its members and what would be the scope of the word 'marketing' in the provision whether it is inclusive wording to include 'enabling of marketing' also. The Ld. Counsel submitted that the word 'marketing' also includes 'facilitating or enabling marketing' of agricultural produce since the Primary Agricultural Credit Cooperative Society cannot directly market the agricultural produce and it has to be done by its members only and therefore, there is no other option to give practical effect of the provisions of the Act accordingly. I am in conformity with the submission put forth by the Ld. Counsel for the assessee. The Act clearly mentions for allowance of deduction u/s. 80P(2)(a)(iii) of the Act for marketing of agricultural produce grown by its members and that marketing could not be done by cooperative society itself and it needs to be done by its members only which the assessee is doing. Accordingly, the assessee is also entitled for deduction u/s. 80P(2)(a)(iii) of the Act. Thus, the A.O is directed to delete the addition from the hands of the assessee while giving appeal effect of this order.”

5. Further, on this issue of sec 80P(2)(a)(iii), the Hon'ble High Court of Karnataka in the case of **Commissioner of Income-tax v. Ryots Agricultural Produce Co-operative Marketing Society Ltd. (Kar-HC) (2010) 323 ITR 666**, the Hon'ble High Court held and observed as follows:

*"6. It is not in dispute that the assessee is engaged in marketing of agricultural produce and what is "marketing" has been considered by the Division Bench of this court in the case of assessee only, reported in Addl. CIT v. Ryots Agricultural Produce Co-operative Marketing Society Ltd. [1978]115 ITR 709 (Kar.) Venkataramaiah J., as he then was, while considering the expression "marketing" has held as hereunder (headnote):*

*"The expression 'marketing' appearing in clause (c) of section 81 (i) (now section 80P) of the Income-tax Act, 1961, is of wide import and generally means "the performance of all business activities involved in the flow of goods and services from the point of initial agricultural production until they are in the hands of the ultimate consumer". In order to make agricultural produce fit for marketing, it may have to be transported or processed, but all the activities involved are understood as amounting to a single activity, namely, marketing, and not independent activities such as transporting processing, selling, etc. The marketing functions may involve exchange functions such as buying and selling, physical functions such as storage, transportation, processing and other commercial functions such as standardisation, financing, market, intelligence, etc."*

*7. From looking into this expression and the judgment of this court in the case of the assessee, even if the Assessing Officer was of the opinion that the case of the assessee does not fall under section 80P(2)(a)(iv) since it falls under section 80P(2)(a)(iii) the assessee is entitled for the benefit. Therefore, we have to answer the substantial question of law framed in this appeal against the Revenue."*

6. That as per above examination of the facts on record, the grounds of appeal raised by the assessee stands allowed.

7. In the result, the appeal of the assessee is **allowed**.

Order pronounced in open court on 27<sup>th</sup> day of February, 2026.

Sd/-

**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 27<sup>th</sup> February, 2026.  
HKS, PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,  
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

//True copy//

Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur