

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.8366/MUM/2025
(Assessment Year:2020-2021)**

Valencia Co. Operative Housing Society Limited

Ground Floor, Hiranandani Gardens, Powai,
Mumbai – 400076. Maharashtra
[PAN: AAAAV0809P]

..... **Appellant**
Vs

**Deputy Commissioner of Income-tax,
Circle, 41(1)(1), Mumbai**

Kautilya Bhavan, Bandra Kurla Complex,
Bandra (East), Mumbai - 400051.
Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Rajeev Khandelwal
For the Respondent/Department : Shri Nakul Agrawal

Date

Conclusion of hearing : 17.02.2026
Pronouncement of order : 26.02.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the Order, dated 06/10/2025, passed by the Additional/Joint Commissioner of Income Tax (Appeals) – 3, Bengaluru [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had dismissed the appeal against the Rectification Order, dated 06/02/2024, passed under Section 154 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2020-2021.
2. The Assessee has raised following grounds of appeal in ITA No.8366/Mum/2025:

"The Additional/Joint Commissioner of Income-tax (Appeals) – 3, Bengaluru (hereinafter referred to as the Addl. CIT(A)) erred in

upholding the action of the Centralized Processing Centre (hereinafter referred to as the CPC) in making a disallowance of Rs.10,05,801 claimed by the appellants under section 80P of the Act, being interest earned on deposits kept with co-operative banks.

The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the CPC in making the impugned disallowance of Rs.10,05,801 in as much as she has not correctly appreciated the facts of the case in its entirety and hence, the impugned disallowance needs to be deleted.

3. The relevant facts in brief are that Assessee is a Co-operative Housing Society and earning income from other sources. The Assessee filed the return of income for the Assessment Year 2020-2021 on 15/02/2021, declaring total income of INR.3,82,290/-. The return was processed and intimation dated 24/12/2021 under Section 143(1) of the Act was issued to the Assessee. On perusal of the order, the Assessee observed that the addition of INR.10,05,801/- made in the total income was related to the income received from the investment such as fixed deposit in other cooperative banks in respect of which the Assessee had claimed the deduction under Section 80P(2)(d) of the Act. However, during the processing of the income tax return, the Central Processing Centre [**CPC**] disallowed the deduction of INR.10,05,801/- claimed by the Assessee and included amount in the taxable income. Subsequently, the Assessee fled the rectification application on 10/10/2023, requesting a reprocessing of the return of income under Section 154 of the Act. The rectification request was processed on 06/02/2024 without deleting the addition of INR.10,05,800/- in the income and resulting in a demand of INR.4,00,590/-.
4. Being aggrieved, the Assessee preferred appeal before the Learned CIT(A) against the Rectification Order, dated 06/02/2024, passed under Section 154 of the Act. Vide Order, dated 06/10/2025, the Learned CIT(A) dismissed the appeal giving detailed reasoning.

5. The Assessee had now preferred the present appeal before the Tribunal on the grounds reproduced in paragraph 2 above.
6. We have heard both the sides on the issue and have perused the material on record.
7. Thus, on merits, the solitary issue that arises for consideration is whether in the facts and circumstances of the present case the whether the CPC was justified in rejecting the deduction claimed by the Assessee under Section 80P(2)(d) of the Act in respect of interest income of INR.10,05,801/- received from co-operative banks.
8. In our view, the issue raised is no longer res-integra and has been examined in various cases.
9. Section 80P(2)(d) of the Act provides that where in the case of an assessee being a co-operative society shall be entitled to claim deduction in respect of '*any income by way of interest or dividends derived by the co-operative society*' from its investments with any other co-operative society. Section 80P(2)(d) of the Act uses the expression '*any income by way of interest or dividend*'. Thus, the language of Section 80P(2)(d) of the Act leaves no room for ambiguity. For the claiming deduction under Section 80P(2)(d) of the Act what is relevant is that interest/dividend should have been derived by a co-operative society from investment in another co-operative society. The fact that such interest/dividend income is in the nature of 'profits and gains' or 'income from other sources' is not relevant.
10. In the case of **Mavilayi Services Co-operative Bank Limited Vs. CIT, Calicut: [2021] 431 ITR 1 (SC) [12/01/2021]**, the Hon'ble Supreme Court has held that the limited object of Section 80P(4) of the Act was to deny the benefit of Section 80P of the Act to the co-operative banks (constituted as co-operative societies) engaged in banking business (i.e. engaged in lending money to the public, and

holding a valid license issued by Reserve Bank of India). Thus, As per Section 80P(4) of the Act a Co-operative Bank was not eligible to claim benefit of Section 80P(2)(d) of the Act. The provisions of Section 80P(4) of the Act did not apply in case of interest/dividend income received by a co-operative society from co-operative banks.

11. As long as it is proved that the interest income is being derived by a co-operative society from its investments made with any other co-operative society, the claim of deduction under Sec. 80P(2)(d) would be available. The term 'co-operative society' had been defined under Sec. 2(19) of the Act, to means a cooperative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any state for the registration of cooperative societies. Therefore, the interest income derived by a co-operative society from its investments held with a co-operative bank would be entitled for claim of deduction under Section 80P(2)(d) of the Act as the aforesaid co-operative bank would continue to be a co-operative society as defined in Section 2(19) of the Act.
12. Our above view, draws support from the decision of Mumbai Bench of the Tribunal in the case of **Kaliandas Udyog Bhavan Premises vs. ITO [ITA No.6547/Mum/2017, Dated 24/04/2018]**, wherein it was held as under:

"8. We shall now advert to the judicial pronouncements that had been relied upon by the authorized representatives for both the parties and the lower authorities. We find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) for the interest income derived from its investments held with a cooperative bank is covered in favour of the assessee in the following cases:

- (i) Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 32 (Mum)
- (ii) M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017)

- (iii) *Marvwanjee Cama Park Cooperative Housing Society Ltd. Vs. ITORange-20(2)(2), Mumbai (ITA No. 6139/Mum/2014, dated 27.09.2017.*

We further find that the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), had also held that the interest income earned by the assessee on its investments held with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Act. Still further, we find that the CBDT Circular No. 14, dated 28.12.2006, as had been relied upon by the Id. A.R, also makes it clear beyond any scope of doubt, that the purpose behind enactment of sub-section (4) of Sec. 80P was to provide that the cooperative banks which are functioning at par with other banks would no more be entitled for claim of deduction under Sec. 80P(4) of the Act. **We are of the considered view that the reliance placed by the CIT(A) on the judgment of the Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Ltd. vs. ITO (2010) 322 ITR 283(S.C.) being distinguishable on facts, thus, had wrongly been relied upon by him. The adjudication by the Hon'ble Apex Court in the aforesaid case was in context of Sec. 80P(2)(a)(i), and not on the entitlement of a co-operative society towards deduction under Sec. 80P(2)(d) on the interest income on the investments parked with a co-operative bank.** We further find that the reliance place by the Id. D.R on the order of the ITAT "F" bench, Mumbai in the case of M/s Vaibhav Cooperative Credit Society Vs. ITO-15(3)(4) (ITA No. 5819/Mum/2014, dated 17.03.2017 is also distinguishable on facts. We find that the said order was passed by the Tribunal in context of adjudication of the entitlement of the assessee co-operative bank towards claim of deduction under Sec.80P(2)(a)(i) of the Act. We find that it was in the backdrop of the aforesaid facts that the Tribunal after carrying out a conjoint reading of Sec, 80P(2)(a)(i) r.w. Sec. 80P(4) had adjudicated the issue before them. We are afraid that the reliance placed by the Id. D.R on the aforesaid order of the Tribunal being distinguishable on facts, thus, would be of no assistance for adjudication of the issue before us. Still further, the reliance placed by the Ld. D.R on the order of the ITAT 'SMC' Bench, Mumbai in the case of Shri Sai Datta Co-operative Credit Society Ltd. Vs. ITO (ITA No. 2379/Mum/2015, dated 15.01.2016, would also not be of any assistance, for the reason that in the said matter the Tribunal had set aside the issue to the file of the assessing officer for fresh examination, **That as regards the reliance placed by the Id. D.R on the judgment of the Hon'ble High Court of Karnataka in the case of Pr. CIT Vs. Totagars co-operative Sale Society (2017) 395 ITR**

611 (Karn), the High Court had concluded that a co-operative society would not be entitled to claim of deduction under Section 80P(2)(d). We however find that as held by the Hon'ble High Court of Bombay in the case of K. Subramanian and Anr. Vs. Siemens India Ltd. and Anr (1985) 156 ITR 11 (Bom), where there is a conflict between the decisions of non-jurisdictional High Court's, then a view which is in favour of the assessee is to be preferred as against that taken against him. Thus, taking support from the aforesaid judicial pronouncement of the Hon'ble High Court of jurisdiction, we respectfully follow the view taken by the Hon'ble High Court of Karnataka in the case of Pr. Commissioner of Income Tax and Anr. Vs. Totagars Cooperative Sale Society (2017) 392 ITR 74 (Karn) and Hon'ble High Court of Gujarat in the case of State Bank Of India Vs. CIT (2016) 389 ITR 578 (Guj), wherein it was observed that the interest income earned by a co-operative society on its investments held with a co operative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act.

9. We thus in the backdrop of our aforesaid observations are unable to persuade ourselves to be in agreement with the view taken by the lower authorities that the assessee would not be entitled for claim of deduction under Sec. 80P(2)(d), in respect of the interest income on the investments made with the co-operative bank. We thus set aside the order of the lower authorities and conclude that the interest income of Rs.27,48,553/- earned by the assessee on the investments held with the co-operative bank would be entitled for claim of deduction under Sec. 80P(2)(d).” (Emphasis supplied)

13. Thus, it is clear that a co-operative society would be eligible to claim deduction under Section 80P(2)(d) of the Act in respect of interest/dividend income received from a co-operative bank (which is constituted as a co-operative society), and this position continues to hold good even after insertion of Section 80P(4) of the Act. Therefore, we hold that CPC was not justified in rejecting deduction claimed by the Assessee under Section 80P(2)(d) of the Act while processing the return of income and while processing the rectification request made by the Assessee. To the same effect is the decision of Mumbai Bench of the Tribunal in the case of Charkop Lands End Co-operative Housing Society Ltd. vs. Income-tax Officer [2025] 174 taxmann.com 602 (Mumbai - Trib.) [15-10-2024] cited by the Learned Authorised Representative for the Assessee during the course of hearing.

14. We note that the Learned CIT(A) had made reference to factual details paining to the functioning of co-operative banks from which interest income was received by the Assessee. We are of the view that the Learned CIT(A) has supported the action of CPC by placing reliance upon material/details on which no reliance could have been placed by the Assessing Officer or the CPC given the limited scope of Section 143(1) and 154 of the Act. There is nothing on record to show that the Assessee was confronted with the factual material on which reliance has been placed by the Learned CIT(A) at the time of processing of return of income, or disposing off rectification application or at the appellate stage before the Learned CIT(A). Clearly, the approach adopted by the Learned CIT(A) cannot be countenanced. Accordingly, the order passed by the Learned CIT(A) cannot be sustained.
15. Keeping in view the above, the disallowance of deduction of claimed by the Assessee under Section 80P(2)(d) of the Act is deleted, and the Assessing Officer is directed to grant deduction of INR.10,05,801/- as claimed by the Assessee under Section 80P(2)(d) of the Act in the return of income. Accordingly, Ground No. 1 & 2 raised by the Assessee are allowed.
16. In result, the present appeal preferred by the Assessee is allowed.

Order pronounced on 26.02.2026.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :26.02.2026
Milan, LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai