

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H(SMC)", MUMBAI

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**ITA No.418/Mum/2026
(Assessment year: 2018-19)**

Premium Tower Co Operative Housing Society Ltd. Plot No.351, S. No.41(P), Old Lokhandwala Complex, Lion SOL Marg, Oshiwara Off Link Road, Andheri (W), Mumbai-400053 PAN:AABAP6171B	vs	ITO, Ward 24(3)(1), Mumbai Piramal Chamber, Mumbai-400012
APPELLANT		RESPONDENT

Assessee by : Shri Rajesh Shah
Respondent by : Shri Pravin Salunkhe, (Sr. DR)

Date of hearing : 08/04/2026
Date of pronouncement : 10/04/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the Ld. Commissioner of Income Tax (Appeal) ADDL/JCIT (A)-4 Hyderabad [for brevity the "Ld. CIT(A)"], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for Assessment Year 2018-19, date of order 31.12.2025. The

impugned order emanated from the order of the CPC, Bengaluru (for brevity the 'Ld. AO') order passed under section 143(1) of the Act date of order 07.06.2019.

2. The brief facts of the case are that the assessee is Cooperative Housing Society registered under the Maharashtra Cooperative Societies Act 1960. During the assessment year the assessee filed the return u/sec. 139 of the Act. The assessee claimed deduction u/sec. 80P(2)(d) of the Act related to interest earned from investment in Cooperative Bank amount to Rs.15,24,410/-. But during the processing of the return the Ld. AO rejected the assessee's claim and added back the alleged amount with the total income of the assessee. The aggrieved assessee filed an appeal before the Ld. CIT(A) with a delay of 1083 days. The Ld. CIT(A) rejected the appeal of the assessee on the ground of limine without considering the merit of the case. Being aggrieved assessee filed an appeal before us.

3. The Ld. AR argued and contended that the assessee had filed the appeal before the Ld. CIT(A) with a delay of 1083 days. But after considering the order of the Hon'ble Supreme Court in case of Suo Moto Writ Petition (C) No.3 of 2020 dated 10.01.2020 the assessee will be granted relief for 716 days for delay in filing appeal. So, with the effective dates for delay in filing appeal is 542 days. Considering this, the Ld. AR submitted a notarized affidavit which is duly executed on 02.03.2026 by the Treasurer of the assessee Mr. Nitin B. Parikh. The relevant part of the said affidavit is reproduced as below:

"5. The case of the appellant was handled by a Tax Consultant. However, due to his pressure of work and due to difference of opinion with office bearers, he resigned and stopped the work. The work of filing of an appeal before Commissioner of Income Tax was assigned to him but as stated above, the Society came to know subsequently that no appeal was filed by said Tax Consultant.

6 The society came to know about not filing of an appeal somewhere in the month of February, 2023. It was at the time when refund was adjusted by the Income Tax Department.

Even the Scrutiny assessment order of A.Y.2015-16 was received during that time and on visiting the Portal to file as appeal before CIT(A), the appellant came to know of the Intimation passed and realised that appeal for A.Y.18-19 is not filed.

7. The society had to find out new tax consultant to handle tax as well as appeal matters. There are number of appeals pending before the various authorities. It took some time for the new tax practitioner to understand the matter and take control of all the tax matters.

8 In view of the above, the society was not aware of the tax matter and it was only on adjustment of taxes by the department, the secretary came to know that the demand is pending since no appeal is filed. The new tax consultant was appointed and asked to file the appeal at the earliest. The appeal was finally filed on 18/03/2023.

9. The Supreme Court in the case of SUO MOTO WRIT PETITION (C) NO.3 OF 2020 dated 10 January, 2022 has granted a relief of total 716 days i.e. form 15/03/2022 to 31/05/2022 in filing of appeals etc. The appellant request that the same may be considered.

10. Accordingly considering the relief granted by the Hon'ble Supreme Court. there was delay in filing an appeal by 542 days.

11. There was no malafide intention or motive to delay in filing of an appeal. It was an inadvertent mistake.

12. The appellant request that the delay in filing of an appeal may be condoned.”

4. The Ld.AR argued and contended that the issue is well settled related to deduction of interest earned from co-operative banks is a permissible deduction under section 80P(2)(d) of the Act. The Ld.AR stated that the assessee claimed the deduction of interest which is only related the co-operative bank. So, the deduction is allowable u/sec 80P(2)(d) of the Act.

5. On the other hand, the Ld.DR vehemently argued and stated that in section 80P(4) is restricted to deduction of interest from co-operative banks under section 80P(2)(d) of the Act. Section 80P(4) does not permit the deduction of

interest of co-operative banks. The Ld. DR fully relied on the orders of the revenue authorities.

6. We heard the rival submissions and considered the documents available on record. The only issue as agitated by the assessee society related to interest and dividend from co-operative banks which is claimed as deduction under section 80P(2)(d) of the Act. Ld. AR contended that the Ld. CIT(A) cited various judicial precedents but the inference drawn in the instant matter as compared to the matter relied upon by Ld. CIT(A) that the assessee had received interest income from Co-operative Banks and the Nationalised Banks and the same was claimed as deduction u/s 80P(2)(d). Whereas in the instant case the assessee had received interest only from Co operative Banks. Section 80P(2)(d) provides for deduction of interest received by a Co-operative Society from another Co-operative Society. A Co-operative Society being a Co-operative Society fits into the permissible provisions of the deductions. Thus the case referred by the Ld. CIT(A) in his judgment is not applicable or relatable to the facts of the instant case.

7. The respectful reliance is placed on the judgment passed by Hon'ble Apex Court in the case of **Kerala State Cooperative Agricultural and Rural Development Bank Ltd v. Assessing Officer [2023] 154 taxmann.com 305/295 Taxman 675/458 ITR 384 (SC)**. The relevant extract is as follows-

"28. Having heard learned advocates for the respective parties and considering the controversy arising in these tax appeals, we are of the opinion that the controversy sought to be canvassed with regard to deduction under section 80P(2)(d) of the Act is no more res integra in view of the decision of this Court in case of Katlary Kariyana Merchant SahkariSarofiMandali Ltd. (supra) as well as in case of State Bank of India (supra) wherein it was held that the deduction of under section 80P(2)(d) of the Act is available to the cooperative societies on the income earned as interest on the investment made with the cooperative bank which in turn, is a cooperative society itself

8. Further the we respectfully relied on the order of the Hon'ble Supreme Court in **PCIT Vs Annasaheb Patil MathadiKamgar Sahakari Pathpedi Limited, Civil Appeal No. 8719/2022 dated 20/04/2023**, reported in **(2023) 150 taxmann.com 173 (SC)** it is held that,

".....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(P)(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."

9. The respectful reliance was placed in the order of the Hon'ble Supreme Court in **Kerala State Co-Operative Agricultural And Rural Development Bank Ltd. KSCARDB vs. Assessing Officer, [2023] 458 ITR 384 (SC)**, it has been held that,

"15.14....."

Conclusion:

In the instant case, although the appellant society is an apex cooperative society within the meaning of the State Act, 1984, it is not a co-operative bank within the meaning of Section 5(b) read with Section 56 of the BR Act, 1949.

In the result, the appeals filed by the appellant are allowed and the order(s) of the Kerala High Court and other authorities to the contrary are set aside. Consequently, we hold that the appellant is entitled to the benefit of deduction under Section 80P of the Act."

10. In our considered view the issue is well settled by the order of the Hon'ble Supreme Court. The revenue has restricted the claim of deduction U/s 80P(2)(d) in pursuance of section 80P(4) of the Act and the cooperative bank is not considered as cooperative society. Respectful reliance was placed on the order of **Annasaheb Patil Mathadi Kamgar Sahakari Pathpedi Limited (supra)** and **Kerala State Co-Operative Agricultural and Rural Development Bank Ltd. KSCARDB (supra)** where the Hon'ble Apex Court categorically stated that cooperative bank

is the cooperative society and not acted as Bank under Banking Regulation Act,1949. We note the orders of the coordinate benches of ITAT- Mumbai in case of **Jaimuni Sahkari Patpedhi Maryadit vs AUITD** in **ITA No. 332 to 334/Mum/2025** date of order 06/03/2025 has taken same view in favour of the assessee. So, the interest earned from investment in cooperative bank is allowable deduction U/s 80P(2)(d) of the Act.

11. Considering the aforesaid discussion, the issue under consideration is restored to the file of the Ld. Jurisdictional Assessing Officer (JAO) for the limited purpose of verifying the interest income earned from the Co-operative Bank amounting to Rs. 15,24,410/- and examining the genuineness of the underlying transactions. Needless to say, the assessee shall be afforded a reasonable opportunity of being heard, and shall be at liberty to file all requisite documents in accordance with law.

12. In the result, the appeal of the assessee bearing **ITA No.418/Mum/2026** is allowed for statistical purposes.

Order pronounced in the open court on 10th day of April 2026.

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai,दिनांक/Dated: 10/04/2026
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT

4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**