

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA No.1440/M/2026
Assessment Year: 2021-22**

New Bombay Co-operative Commercial Complex Premises Society Limited, Sector No.11, Plot No. 43 Belapur Railway Station, C B D, Belapur, Navi Mumbai, Maharashtra - 400614 PAN – AABAN1672M	Vs.	ITO-Ward 28 (2)(1), IT Office, Vasi Railway Station Building, Navi Mumbai, Maharashtra - 400703,
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Mona Solanki, Ld. A.R.
Revenue by : Shri Tushar Mohite, Ld. Sr. D.R.

Date of Hearing : 02.04.2026
Date of Pronouncement : 15.04.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 29.01.2026, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2021-22.

2. In the instant case, the only controversy involved relates to disallowance of Rs.1,76,987/- on account of not allowing the deduction claimed under Section 80P(2)(d) of the Act for the interest income earned by the Assessee from deposits maintained with Co-operative Banks namely Maharashtra State Co-operative

Bank Limited and Saraswat Bank by way of rectification order dated 24.02.2023 under Section 154 of the Act, which subsequently got affirmed through impugned order herein. We observe that the issue related to not allowing the deduction claimed under Section 80P(2)(d) of the Act has been decided by various courts across the nation including by the Hon'ble Co-ordinate Bench of the Tribunal in the case of *Pathare Prabhu Cooperative Housing Society Ltd. v. ITO* (ITA Nos. 1346 & 1347/Mum/2023) and ultimately allowed in favour of the Assessee by observing and holding as under:-

"8. We have considered the submissions of both sides and perused the material available on record. The only dispute raised by the Assessee is against the disallowance of deduction under section 80P(2)(d) of the Act in respect of interest income received from the Co-operative Banks. The Assessee is a registered Co-operative Housing Society and during the assessment year 2018-19 earned interest income of Rs. 50,39,861 from the investments made in various Co-operative Banks.

9. Before proceeding further, it is relevant to note the provisions of section 80P of the Act under which the Assessee has claimed the deduction in the present case. As per the provisions of section 80P(1) of the Act, the income referred to in sub-section (2) to section 80P shall be allowed as a deduction to an Assessee being a Co-operative Society. Further, section 80P(2)(d) of the Act, reads as under:

"80P. Deduction in respect of income of co-operative societies.

(1)

(2) The sums referred to in sub-section (1) shall be the following, namely:-

(a)

(b)

(c)

(d) in respect of any income by way of interest or dividends derived by the cooperative society from its investments with any other co-operative society, the whole of such income;"

10. Thus, for the purpose of provisions of section 80P(2)(d) of the Act, two conditions are required to be cumulatively satisfied- (i) income by way of interest or dividend is earned by the Co-operative Society from the investments, and (ii) such investments should be with any other Co-operative Society. Further, the term

„co-operative society“ is defined under section 2(19) of the Act as under:

"(19) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;

11. In the present case, there is no dispute that the Assessee is a Co Operative Housing Society. Thus, if any income as referred to in sub-section (2) to section 80P of the Act is included in the gross total income of the Assessee, the same shall be allowed as a deduction. It is pertinent to note that since the Assessee is registered under the Maharashtra Co-operative Societies Act, 1960, it is required to invest or deposit its funds in one of the modes provided in section 70 of the aforesaid Act, which includes investment or deposit of funds in the District Central Co-operative Bank or the State Cooperative Bank. Accordingly, the Assessee M/s. The Orchard Residency Co-op Housing Society Limited kept the deposits in Co-operative Banks registered under the Maharashtra Co-operative Societies Act and earned interest, which was claimed as a deduction under section 80P(2)(d) of the Act. The AO denied the deduction under section 80P(2)(d) of the Act on the basis that the Co-operative Bank is covered under the provisions of section 80P(4) of the Act. We find that the Hon'ble Supreme Court in Mavilayi Service Cooperative Bank Ltd. vs CIT, Calicut, [2021] 431 ITR 1 (SC) while analyzing the provisions of section 80P(4) of the Act held that section 80P(4) is a proviso to the main provision contained in section 80P(1) and (2) and excludes only Cooperative Banks, which are Co-operative Societies and also possesses a licence from RBI to do banking business. The Hon'ble Supreme Court further held that the limited object of section 80P(4) is to exclude Co-operative Banks that function at par with other commercial banks i.e. which lend money to members of the public. Thus, we are of the considered view that section 80P(4) of the Act is of relevance only in a case where the Assessee, who is a Co-operative Bank, claims a deduction under section 80P of the Act which is not the facts of the present case. Therefore, we find no merits in the aforesaid reasoning adopted by the AO and upheld by the learned CIT(A) in denying deduction under section 80P(2)(d) of the Act to the Assessee.

12. As regards the claim of deduction under section 80P(2)(d) of the Act, it is also pertinent to note that all Co-operative Banks are Co-operative Societies but vice versa is not true. We find that the coordinate benches of the Tribunal have consistently taken a view in favour of the Assessee and held that even the interest earned from the Co-operative Banks is allowable as a deduction under section 80P(2)(d) of the Act. In Kaliandas Udyog Bhavan Premises Coop Society Ltd vs ITO, in ITA No. 6547/ Mum./2017, vide order dated 25/04/2018, while dealing with the provisions of section

80P(2)(d) vis-à-vis section 80P(4) of the Act, the coordinate bench of the Tribunal observed as under:

"7.Thus, from a perusal of the aforesaid Sec. 80P(2)(d) it can safely be gathered that income by way of interest income derived by an Assessee cooperative society from its investments held with any other cooperative society, shall be deducted in computing the total income of the Assessee. We may herein observe, that what is relevant for claim of deduction under Sec. 80P(2)(d) is that the interest income should have been derived from the investments made by the Assessee co-operative society with any other cooperative society. We though are in agreement with the M/s. The Orchard Residency Co-op Housing Society Limited observations of the lower authorities that with the insertion of Sub-section (4) of Sec. 80P, vide the Finance Act, 2006, with effect from 01.04.2007, the provisions of Sec. 80P would no more be applicable in relation to any co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, but however, are unable to subscribe to their view that the same shall also jeopardize the claim of deduction of a cooperative society under Sec. 80P(2)(d) in respect of the interest income on their investments parked with a co-operative bank. We have given a thoughtful consideration to the issue before us and are of the considered view that as long as it is proved that the interest income is being derived by a cooperative society from its investments made with any other cooperative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d) would be duly available. We may herein observe that the term 'co-operative society' had been defined under Sec. 2(19) of the Act, as under:

'(19) "Co-operative society" means a cooperative society registered under the Cooperative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any state for the registration of co-operative societies;' We are of the considered view, that though the co-operative bank pursuant to the insertion of Sub-section (4) of Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but however, as a co-operative bank continues to be a co-operative society registered under the Cooperative Societies Act, 1912 (2 of 1912), or under any other law for the time being enforced in any state for the registration of co-operative 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 Sec.80P(2)(d) of the Act."

3. As the issue is squarely covered in favour of the Assessee by the aforesaid judgment referred to above, thus, the addition under consideration is deleted, subject to factual verification by JAO.

4. In the result, Assessee's appeal is allowed, with the above terms.

Order pronounced in the open court on 15.04.2026.

**Sd/-
(ARUN KHODPIA)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

**(Tarun Kushwaha)
Sr. Private Secretary**

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.