

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH: MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 6376/Mum/2025
Assessment Year : 2021-22

Clover Everest World Co-operative Housing Society Limited, Clover Everest Complex, Clover Everest World CHS, Dhokali, Thane, Maharashtra-400607. [PAN: AABAC8915E]	vs.	ITO, Ward-1(1), 6 th Floor, Income Tax Department, Ashar IT Park, Wagale Estate, Thane Maharashtra-400604.
(Appellant)		(Respondent)

For Assessee :	Shri Ruturaj Gurjar
For Revenue :	Shri Mahesh Shingate, Addl. CIT <i>(virtually appeared)</i>

Date of Hearing :	09-12-2025
Date of Pronouncement :	12-12-2025

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Ld. ADDL/JCIT(A)-2, Visakhapatnam, dated 25-08-2025, pertaining to Assessment Year (AY) 2021-22.

2. The limited issue for consideration in the present matter relates to claim of exemption u/s 80P(2)(d) of the Act by the assessee co-operative society in respect of interest income earned on deposits placed with co-operative banks.

3. Briefly the facts of the case are that assessee is a co-operative society. It filed its return of income for the year under consideration on 29-09-2018 claiming exemption u/s 80(P)(2)(d) of the Act. The return of income was processed by CPC u/s 143(1) vide order dated 19/10/2022 wherein the claim of deduction u/s 80P(2)(d) was denied in respect of interest income of Rs 362,297/- earned on deposits placed with Punjab and Maharashtra Co-operative Bank and Thane, District Central Co-operative Bank. The assessee thereafter filed a rectification application which was also rejected vide order u/s 154 dated 15-11-2022.

4. The assessee thereafter carried out the matter in appeal before Ld. CIT(A) which has sustained the order of the AO and appeal of the assessee has been dismissed and against the said order, the assessee is in appeal before us.

5. We have heard the rival contentions and perused the material available on record. 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 provides for 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. Thus, for the purpose of Section 80P(2)(d) of the Act, there are only two conditions which are required to be cumulatively satisfied, i.e, the income should be by way of interest or dividend earned by a Co-operative Society from its investments, and secondly, such investments should be with any other Co-operative Society. Besides these two conditions, there are no other condition(s) which has been provided in the statute as apparent from the plain reading of the provisions of Section 80P(2)(d) of the Act and therefore, nothing further has

to be read into limiting or restricting its applicability in the instant case. As held by the Hon'ble Supreme Court in case of Mavilayi Co-operative Bank, Section 80P of the IT Act, being a benevolent provision enacted by Parliament to encourage and promote the credit of the co-operative sector in general must be read liberally and reasonably, and if there is ambiguity, in favour of the assessee and where a deduction that is given without any reference to any restriction or limitation, the same cannot be restricted or limited by implication.

6. In the instant case, it is not in dispute that the assessee is a co-operative housing society eligible for deduction u/s. 80P of the Act. During the year under consideration, the assessee has earned interest income of Rs. 362,297/- from deposits placed with various co-operative banks registered under the Maharashtra Co-operative Societies Act, 1960, which qualify them as Co-operative Society registered under the Co-operative Societies Act, 1912 (2 of 1912), and the details of which have been submitted by the Ld.AR which forms part of the record and are not in dispute. The assessee Co-operative Society thus satisfies both the conditions and qualify for deduction u/s 80P(2)(d) of the Act.

7. We further find that the matter is no more *res integra* covered by the various decisions of the Co-ordinate Benches of the Tribunal, including Mumbai Benches, wherein the Co-ordinate Bench have consistently discussed the matter in favour of the assessee and reference can be drawn to the decision of the Coordinate Bench in case of Nariman Bhavan Premises Co Op Society Ltd (ITA No. 3658/Mum/2023 dated 03.05.2024) wherein the matter has been discussed in extenso and the relevant findings therein read as under:

“6. We heard the rival submissions and perused the material on record. The sole matrix of the disputed issue emphasized by the Ld.DR is in

respect of allowing the deduction u/s 80P(2)(d) of the Act to the Cooperative Housing Society. Whereas the Ld. DR submitted that the cooperative society does not entitle for deduction u/sec 80P(2)(d) of the Act. Whereas the Ld. AR submitted that the interest income derived by a co-operative society from its deposits with the co-operative banks would be entitled for deduction U/sec 80P (2)(d) of the Act. The co-operative bank continues to be a co-operative society registered under the Co-operative Societies Act. The Ld.AR has relied on the submissions and judicial decisions filed before the CIT(A) as under:

- (i) M/s Solitaire CHS Ltd. v. Pr. CIT-26, Mumbai, ITA No. 3155/Mum/2019, dated 29-11-2019
- (ii) KaliandasUdyogBhavan Premises Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai ITAT SMC dated 25.04.2018.
- (iii) Palm Court Co-operative Housing Society Vs. ITAT, Mumbai, ITA No. 561/MUM/2021 dated 08.09.2022. C Bench, Mumbai ITAT.
- (iv) GautamDhan Co-operative Housing Society Vs. ITAT, Mumbai, ITA No. 997/MUM/2023 dated 13.06.2023. SMC Bench, Mumbai ITAT

7. We find the Coordinate Bench of the Honble Tribunal in the case of Amore Commercial Premises Co-op Society Ltd vs. CPC Karnataka in ITA No. 2873 & 2874/Mum/2022dated 17-01-2023 has dealt on the taxability of interest earned on the deposits with the Co-operative Banks at page 2 Para 3 of the order, which is read as under:

“3. Briefly stated facts necessary for consideration an adjudication of the issues at hand are :- Assessee being a CoOperative Society has claimed disallowance/deduction u/s. 80P (2)(d) in respect of the interest of Rs. 6,96,725/- for parking its funds with Saraswat Co-Operative Bank, Sham Vithal Rao Co-Operative Bank and district central CoOperative Bank. However, centralized processing centre (CPC)/ Assessing Officer has disallowed the deduction Claimed by the Assessee u/s 143(1).

4. Assessee carried the matter before the Ld.CIT(A) by way of filing Appeals who has confirmed the addition by dismissing Appeals. Filing aggrieved Assessee has come up before the Tribunal by way of filing present Appeal.

5. We have heard the Ld. Authorized Representative of the parties to the Appeals, perused the order passed by the Lower Revenue Authorities and documents available on record in the light of the law applicable thereto.

6. Undisputedly Assessee Society has invested is surplus funds with Co-Operative banks and earned the interest income to the tune of Rs. 6,96,725/- and claimed it is deduction u/s. 80P (2)(d) of the Act, which has been disallowed by Assessing Officer & confirmed by the Ld.CIT(A) by

relying upon decision rendered by Hon'ble Karnataka High Court in case of principle Ld.CIT Vs. Totgar's Co-Operative Sales Society Ltd.

7. Issue as to the allow-ability of the deduction claimed by the Assessee u/s. 80P (2)(d) of the Act, is no longer Res-Integra having being decided by the co-ordinate Bench of the Tribunal in case of Palm Court M Premises Co-operative Society Ltd. in ITA No.561/M/2021 order dated 09.09.2022 by settling the issue in favour of the assessee by distinguishing the judgment rendered by Hon'ble Supreme Court in case of Totgar's Cooperative Sale Society Ltd. Vs. Income Tax Officer, 188 Taxman 282(SC) and by discussing the decision rendered by Hon'ble Bombay High and Hon'ble Gujarat High Court wherein it is held that interest income earned by the Co-operative Society on its investment made with co-operative bank would be eligible for claim of deduction under section 80P(2)(d) of the Act by returning following findings:

"8. We have given a thoughtful consideration to the contentions advanced by the Id. Authorized representatives for both the parties in context of the aforesaid issue under consideration. As stated by the Id. A.R, and rightly so, the issue that interest received by a co-operative society on its deposits with cooperative banks would be eligible for deduction w/s 80P(2)(d) of the Act is covered in assessee's favour by orders of the various coordinate benches of the Tribunal in the following cases: (i). M/s Solitaire CHS Ltd. Vs. Pr.CIT-26, Mumbai, ITA No.3155/Mum/2019, dated 29.11.2019 (ii). Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 52 (Mum.) (iii). M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017. (iv). Marwanjee Cama Park Cooperative Housing Society Ltd. Vs. ITO-Range 20(2)(2), Mumbai (ITA NO. 6139/Mum/2014, dated 27.09.2017. (v). Kaliandas Udyog Bhavan Premises Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai. In the aforesaid orders, it has been held by the Tribunal that though the cooperative banks pursuant to the insertion of subsection (4) to Sec. 80P of the Act would no more be entitled for claim of deduction u/s 80P of the Act, but as a co-operative bank continues to be 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, therefore, the interest income derived by a cooperative society from its investments held with a co-operative bank would be entitled for claim of deduction w/s 80P(2)(d) of the Act. We find that the aforesaid issue had exhaustively been looked into by the ITAT, "G" bench, Mumbai in the case of M/s Solitaire CHS Ltd, Vs. Pr.CIT-26, Mumbai ITA No.3155/Mum/2019, dated 29.11.2019, wherein the Tribunal had observed as under: "6. We have heard the authorized representatives

for both the parties, perused the orders of the lower authorities and the material available on record, as well as the judicial pronouncements relied upon by them. Our indulgence in the present appeal has been sought, for adjudicating, as to whether the claim of the assessee for deduction under section. 80P(2)(d) in respect of interest income earned from the investments/deposits made with the co-operative banks is in order, or not. In our considered view, the issue involved in the present appeal revolves around the adjudication of the scope and gamut of sub-section (4) of Sec. 80P as had been made available on the statute, vide the Finance Act 2006, with effect from 01.04.2007. On a perusal of the order passed by the Pr.CIT under Sec. 263 of the Act, we find, that he was of the view that pursuant to insertion of sub-section (4) of Sec. 80P, the assessee would no more be entitled for claim of deduction under Sec. 80P(2) (d) in respect of the interest income that was earned on the amounts which were parked as investments/deposits with cooperative banks, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Observing, that the co-operative banks from where the assessee was in receipt of interest income were not co-operative societies, the Pr. CIT was of the view that the interest income earned on such investments/deposits would not be eligible for deduction under Sec. 80P(2)(d) of the Act. 7. After necessary deliberations, we are unable to persuade ourselves to be in agreement with the view taken by the Pr. CIT. Before proceeding any further, we may herein reproduce the relevant extract of the aforesaid statutory provision, viz. Sec. 80P(2) (d), as the same would have a strong bearing on the adjudication of the issue before us. "80P(2) (d) (1). Where in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in subsection (2), in computing the total income of the assessee. (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 co-operative society from its investments with any other co-operative society, the whole of such income;"

On a perusal of Sec.80P(2)(d), it can safely be gathered that interest income derived by an assessee co-operative society from its investments held with any other cooperative society shall be deducted in computing its total income. 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 cooperative society with any other co-operative society. We are in agreement with the view taken by the Pr. CIT, 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. However, at the same time, we are unable to subscribe to his view that the aforesaid amendment would jeopardise the claim of deduction of a co-operative society under Sec. 80P(2)(d) in respect of its interest income investments/deposits parked with a co-operative bank. In our considered view, as long as it is proved that the interest income is being derived by a cooperative society from its investments made with any other co-operative society, the claim of deduction under the aforesaid statutory provision, viz. Sec. 80P(2)(d) would be duly available. We find that the term cooperative society" had been defined under Sec. 2(19) of the Act, as under:- "(19) "Cooperative 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 cooperative societies;" We are of the considered view, that though the cooperative banks pursuant to the insertion of subsection (4) to Sec. 80P would no more be entitled for claim of deduction under Sec. 80P of the Act, but as a cooperative bank continues to be 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, therefore, the interest income derived by a cooperative society from its investments held with a cooperative bank would be entitled for claim of deduction under Sec.80P(2)(d) of the Act. 8. We shall now advert to the judicial pronouncements that have been relied upon by the Id. A.R. We find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) on 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 \$2 (Mum) (ii) M/s C. Green Cooperative Housing and Society Ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017 (iii) MarvwanjeeCama Park Cooperative Housing Society Ltd. Vs. ITO-Range-20(2)(2). Mumbai (ITA No. 6139/Mum/2014, dated 27.09.2017. (iv). KaliandasUdyogBhavanPemises Co-op. Society Ltd. Vs. ITO, 21(2)(1), Mumbai. 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 held,

that the interest income earned by the assessee on its investments 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, also makes it clear beyond any scope of doubt that the purpose behind enactment of sub-section (4) of Sec. 80P was that the cooperative banks which were functioning at par with other banks would no more be entitled for claim of deduction under Sec. 80P(4) of the Act. Insofar the reliance placed by the Pr. CIT on the judgment of the Hon'ble Supreme Court in the case of Totgars Co-operative Sale Society Ltd. vs. ITO (2010) 322 ITR 283 (SC) is concerned, we are of the considered view that the being distinguishable on facts 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 cooperative society towards deduction under Sec. 80P(2) (d) on the interest income on the investments/deposits parked with a co-operative bank. Although, in all fairness, we may observe that the Hon'ble High Court of Karnataka in the case of Pr. CIT Vs. Totagars cooperative Sale Society (2017) 395 ITR 611 (Karn), had concluded that a co-operative society would not be entitled to claim of deduction under Sec. 80P(2) (d). At the same time, we 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 observed, that the interest income earned by a co-operative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec. 80P(2) (d) of the Act. We 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 nonjurisdictional High Court's, then a view which is in favour of the assessee is to be preferred as against that taken against him. Accordingly, 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 cooperative society on its investments held with a cooperative bank would be eligible for claim of deduction under Sec.80P(2)(d) of the Act. 9. Be that as it may, in our considered view, as the A.O while framing the assessment had taken a possible view, and therein concluded that the assessee would be entitled for claim of deduction under Sec. 80P(2) (d) on the interest income earned on its investments/deposits

with cooperative banks, therefore, the Pr. CIT was in error in exercising his provisional jurisdiction u/s 263 for dislodging the same. In fact, as observed by us hereinabove, the aforesaid view taken by the A.O at the time of framing of the assessment was clearly supported by the order of the jurisdictional Tribunal in the case of Land and Cooperative Housing Society Ltd. Vs. ITO (2017) 46 CCH 52 (Mum). Accordingly, finding no justification on the part of the Pr. CIT, who in exercise of his powers under Sec. 263, had dislodged the view that was taken by the A.O as regards the eligibility of the assessee towards claim of deduction under Sec. 80P(2)(d), we "set aside" his order and restore the order passed by the A.O under Sec. 143(3), date 14.09.2016." As the facts and the issue involved in the present case before us remains the same as were there before the Tribunal in the case of M/s Solitaire CHS Ltd. (supra), wherein the order passed by the Pr. CIT u/s 263 of the Act was quashed, we, thus, respectfully follow the same. Backed by our aforesaid deliberations, we are unable to uphold the view taken by the Pr. CIT that the failure on the part of the A.O to be disallow the assessee's claim for deduction u/s 80P(2)(d) had rendered the assessment order passed by him u/s 143(3) of the Act, dated 31.08.2017 as erroneous in so far it was prejudicial to the interest of the revenue. 9. Accordingly, on the basis of our aforesaid observations, we herein not finding favor with the view taken by the Pr. CIT that the order passed by the A.O u/s 143(3), dated 31.08.2017 was erroneous in so far it was prejudicial to the interest of the revenue within the meaning of Sec. 263 of the Act set-aside the same and restore the order passed by the A.O u/s 143(3) of the Act, dated 31.08.2017."

8. Hon'ble High Court of Karnataka in case of Pr. CIT & Anr. Vs. Totgar's Co-operative Sale Society Ltd. (2017) 292 ITR 74 (Kar.) and Hon'ble Gujarat High Court in case of State Bank of India vs. CIT (2016) 389 ITR 578 (Guj.) had held that interest income earned by a co-operative society on its investment held with cooperative bank would be eligible for claim of deduction under section 80P(2)(d) of the Act.

9. So following the decision rendered by Hon'ble Karnataka High Court (supra) and Hon'ble Gujarat High Court (supra), we are of the considered view that assessee society who has earned an amount of Rs. Rs. 6,96,725/- from its investment of surplus fund with cooperative banks is entitled for deduction under section 80P(2)(d) of the Act. Resultantly, the Ld. CIT(A) has erred in upholding the denial of deduction by the AO to the assessee under section 80P(2)(d) of the Act."

8. We considering the facts, circumstances and the ratio of the judicial decisions find the Honble Tribunal has relied on catena of judicial decisions where the co-operative society receives/earns interest on deposits

with the cooperative bank is eligible for claim of deduction under section 80(2)(d) of the Act and we follow the judicial precedence. We find the CIT(A) has considered the facts, submissions and relied on the judicial decisions and has passed a conclusive and reasoned order. Accordingly, we do not find any infirmity in the order of the CIT(A) on the disputed issues and uphold the same and dismiss the grounds of appeal of the revenue.”

8. In light of the aforesaid discussion and considering the entirety of facts and circumstances of the case, the assessee has rightly claimed deduction u/s. 80P(2)(d) of the Act in respect of interest received on deposits placed with various co-operative banks. The AO is accordingly directed to allow the deduction so claimed by the assessee and addition of Rs 362,297/- is hereby directed to be deleted.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12-12-2025

Sd/-
[RAHUL CHAUDHARY]
JUDICIAL MEMBER

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Mumbai, Dated: 12-12-2025

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai