

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER  
&  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 1618/MUM/2024  
(Assessment Year : 2018-19)**

M/s Ijmima Imitation Jewellery Market Society Limited Society Office Ijmima Complex, Raheja Metroplex, Link Road, Malad(W), Mumbai-400064.	Vs.	AO, Circle 41(3)(1) Kautilya Bhavan, Mumbai-400051.
<b>PAN/GIR No. AAAAI6896F</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. Aajay Singh
Revenue by	Shri. H.M. Bhatt (Sr. DR)
<b>Date of Hearing</b>	<b>20/06/2024</b>
<b>Date of Pronouncement</b>	<b>19/09/2024</b>

**आदेश / ORDER**

**PER SUNIL KUMAR SINGH (J.M):**

1. This appeal has been preferred against the impugned order dated 08.02.2024 passed in Appeal no. NFAC/2017-18/10042289 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the

Assessment year 2018-19, wherein learned CIT(A) has confirmed the disallowance of deduction claimed u/s. 80P(2)(d) of the Act made vide assessment order dated 25.03.2021.

2. The brief facts leading to this appeal state that appellant assessee e-filed return of income on 18.09.2018 for A.Y. 2018-19, declaring total income at Rs. 92,44,220/-. The case was selected for limited scrutiny under CASS. Statutory notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. After considering the submissions made by the assessee, learned assessing officer disallowed the interest income of Rs. 60,98,513/- out of which, according to assessee, Rs. 48,90,901/- is said to have been earned on investment made with Saraswath Co-op Bank and Rs. 12,07,612/- on investment made in fixed deposits with Mumbai District Central Co-operative Bank Ltd., registered under Maharashtra Co-operative Societies Act, 1960.
3. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal.
4. The appellant assessee has preferred this second appeal before the Tribunal on the ground that learned CIT(A) has erred in upholding the disallowance of Rs. 60,98,513/-, ignoring the fact that the appellant society is entitled to the deduction of said amount u/s. 80P(2)(d) of the Act, being an interest received from investment in other co-operative society.

5. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
6. We have perused the material on record and heard learned representatives for both the parties.
7. The main point for determination under appeal is as to whether the appellant M/S Ijmima Imitation Jewellery Market Society limited is entitled to the deduction of Rs. 60,98,513/- u/s. 80P(2)(d) of the Act on the income of interest received from investment in the aforesaid two co-operative banks?
8. The appellant has submitted that the issue involved in the present appeal is squarely covered by the order dated 13.09.2023 passed by the co-ordinate bench of this Tribunal in ITA no. 2027/MUM/2023, for A.Y. 2017-18, the Marol Industrial Co-operative Estate Ltd. V. Asstt. Commissioner of Income Tax and submits that the assessee is entitled to the benefit of section 80P(2)(d) of the Act. Prayed to set aside the impugned order and to allow the appeal.
9. Per contra, learned DR has vehemently supported impugned order on merits.
10. The term “co-operative society” has been defined u/s. 2(19) of the Income Tax Act 1961 as under:

*“section 2(19) of the Income Tax Act 1961*

*“ ‘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.”*

The term “Co-operative Bank” is defined under Maharashtra Co-Operative Society Act 1960, as under:

*Maharashtra Co-operative Society Act 1960*

*“(10) "Co-operative Bank means a society which is doing the business of banking as defined in clause (b) of sub section (1) of section 5 of the Banking Companies Act 1949, and includes any society which in functioning are is to function as (a co-operative agricultural and rural multipurpose developers bank) under chapter XI”*

11. In *Mavilayi Service Co-operative Bank Limited V Commissioner of Income Tax, Calicut, (2021) 7SCC 90*, it has been held by the Apex Court that Section 80P of the Act is a beneficial provision which was enacted in order to encourage and promote the growth of the co-operative sector generally in the economic life of the country and therefore, has to be read liberally in favour of the assessee. That once the assessee is entitled to avail of deduction, the entire amount of profits and gains of business that are attributable to any one or more activities mentioned in sub- section (2) of Section 80P must be given by way of deduction vide *Citizen Co-operative Society Limited V Commissioner of Income Tax, (2017) 9SCC 364*. This is because sub-section (4) of Section 80P is in the nature of a proviso to the main provision contained in sub- sections (1) and (2) of Section 80P. The proviso excludes co-operative banks, which are co-operative societies which must possess a licence from the Reserve Bank of India to do banking business. In other words, if an entity does not require a licence to do banking business within the definition of banking under Section 5(b) of the BR Act, 1949, then it would

not fall within the scope of sub-section (4) of Section 80P.

12. Hon'ble Supreme Court in Kerala State Co-operative Agricultural and Rural Development Bank Ltd. (KSCARDB) V The Assessing Officer Trivendrum and Ors, in Civil Appeal no. 10069 of 2016, vide judgment dated 14.09.2023 has also reiterated the view of Mavilayi (Supra) and while analysing section 80P of the Act in depth, concludingly noted eight resultant points. According to the eighth point, it was concluded by the Apex Court that sub-clause (d) states that where interest or dividend income is derived by a co-operative society from investments with other co-operative societies, the whole of such income is eligible for deduction, the object of the provision being furtherance of the co-operative movement as a whole.

13. Hon'ble Karnataka High Court in Principal Commissioner of Income Tax and another V Totgars Co-operative Sale Society, [2017] 392 ITR 74 (Karn.), has, after referring Hon'ble Apex Court's Judgement of Totgar's Co-operative Sale Society V ITO[2010] 322 ITR 283(SC), held in para 7,8,9,10 as under:

*"7. However, the contention being taken by the learned counsel is untenable. For the issue that was before the Income-tax Appellate Tribunal, was a limited one, namely whether for the purpose of section 80P(2)(d) of the Act, a co-operative bank should be considered as a co-operative society or not? For, if a co-operative bank is considered to be a co-operative society, then any interest earned by the co-operative*

society from a co-operative bank would necessarily be deductible under section 80P(1) of the Act.

8. The issue whether a co-operative bank is considered to be a co-operative society is no longer *res integra*. For the said issue has been decided by the Income-tax Appellate Tribunal itself in different cases. Moreover the word "co-operative society" are the words of a large extent, and denotes a genus, whereas the word "co-operative bank" is a word of limited extent, which merely demarcates and identifies a particular species of the genus co-operative societies. Co-operative society can be of different nature, and can be involved in different activities; the co-operative bank is merely a variety of the co-operative societies. Thus the co-operative bank which is a species of the genus would necessarily be covered by the word "co-operative society".

9. Furthermore, even according to section 56(i) (ccv) of the Banking Regulation Act, 1949, defines a primary co-operative bank as the meaning of co-operative society. Therefore, a co-operative bank would be included in the words "co-operative society".

10. Admittedly, the interest which the assessee-respondent had earned was from a co-operative bank. Therefore, according to section 80P(2)(d) of the Income-tax Act, the said amount of interest earned from a co-operative bank would be deductible from the gross income of the co-operative society in order to assess its total income. Therefore, the Assessing Officer was not justified in denying the said deduction to the assessee-respondent.

The learned counsel has relied on the case of *Totgar's Co-operative Sale Society Ltd. v. ITO* [2010] 322 ITR 283 (SC). However, the said case dealt with the interpretation, and the deduction, which would be applicable under section 80P(2)(a)(i) of the Income-tax Act. For, in the present case the interpretation that is required is of section 80P(2)(d) of the Income-tax Act and not section 80P(2)(a)(i) of the Income-tax Act. Therefore, the said judgment is inapplicable to the present case. Thus, neither of the two substantial questions of law canvassed by the learned counsel for the Revenue even arise in the present case."

14. The Co-ordinate Bench of this Tribunal in the *Marol Co-operative Industrial Estate Limited (Supra)*, has held as under.

"2. We notice that this issue has been decided in favour of the assessee in the following cases, wherein it was held that the interest received from co-operative banks by a co-operative society is eligible for deduction u/s 80P(2)(d) of the Act.

(A) **In the case of *Kaliandas Udyog Bhavan Premises Co-op Society Ltd vs. ITO* (ITA No. 6547/MUM/2017 dated 25/04/2018), the coordinate bench has held as under:-**

6. We have heard the authorised representatives for both the parties, perused the orders of the lower authorities and the material available on record. We find that our indulgence in the present appeal has been sought to adjudicate as to whether the claim of the assessee for deduction under section 80P(2)(d), in respect of interest income earned from the investments made with the co-operative banks is in order or not. We find that the issue involved in the present appeal hinges around the adjudication of the scope and gamut of sub-section (4) of Sec. 80P, as had been made available on the statute by the

legislature vide the Finance Act 2006, with effect from 01.04.2007. We find that the lower authorities had taken a 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) of the interest income earned on the amounts parked as investments with co-operative banks, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. We find that the lower authorities had observed that as the co-operative bank with which the surplus funds of the assessee were parked as investments, were neither Primary Agricultural Credit Society nor a Primary Co-operative Agricultural and Rural Development Bank, therefore, the interest income earned on such investments would not be entitled for claim of deduction under Sec. 80P(2)(d) of the Act.

7. We have deliberated at length on the issue under consideration and are unable to persuade ourselves to be in agreement with the view taken by the lower authorities. Before proceeding further, we may herein reproduce the relevant extract of the said 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 cooperative 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 sub-section (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 cooperative society, the whole of such income;"

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 co- operative 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 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 cooperative 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 jeopardise the claim of deduction of a co-operative 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 co-operative 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 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 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;"*

*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 Co-operative 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.*

*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 52 (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. ITO-Range-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 Kaliandas Udyog Bhavan Premises Coop Society Ltd. vs. ITO - A.Y. 2014-15 10 ITA No.6547/MUM/2017 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 ld. 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 co-operative 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 ld. 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 ld. 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 ld. 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 Sec. 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)."*

**(B) Rena Sahakri Sakhai Karkhana Ltd vs. PCIT (ITA No.1249/PUN/2018 dated 07-01-2022**

*"7. We have heard the ld. authorised 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 or not 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. In our considered view, the issue involved in the present appeal hinges 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 the co-operative bank, other than a Primary Agricultural Credit Society or a Primary Co-operative Agricultural and Rural Development Bank. Observing, that the cooperative banks from where the assessee was in receipt of interest income were not cooperative 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. 8. After necessary deliberations, we are unable to persuade ourselves to concur with the view taken by the Pr. CIT. Before proceeding any further, we may herein cull out 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 sub-section (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 cooperative 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 co-operative 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 co-operative society with any other cooperative society. We are in agreement with the view taken by the Pr. CIT, that with the insertion of sub-section (4) to Sec. 80P of the Act, 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 jeopardize the claim of deduction of a co-operative society under Sec. 80P(2)(d) in respect of its interest income on 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 co-operative 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) “Co-operative society” means a cooperative 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;” We are of the considered view, that though the co-operative banks pursuant to the insertion of sub-section (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 cooperative 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 under Sec.80P(2)(d) of the Act. 9. In so far the judicial pronouncements that have been relied upon by the ld. A.R are concerned, we find that the issue that a cooperative society would be entitled for claim of deduction under Sec. 80P(2)(d) on the interest income derived from its investments held with a co-operative bank is covered in favour of the assessee in the following cases: (i) M/s Solitaire CHS Ltd. vs. Pr. CIT, ITA No. 3155/Mum/2019; dated 29.11.2019 ( ITAT “G” Bench, Mumbai); (ii) Majalgaon Sahakari SAKhar Karkhana Ltd. Vs. ACIT, Circle-3, Aurangabad, ITA No, 308/Pun/2018 (ITAT Pune) (iii). Kaliandas Udyog Bhavan Pemises 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 co-operative 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. Although, in all fairness, we may herein observe that the Hon’ble High Court of Karnataka in the case of Pr. CIT Vs. Totagars co-operative Sale Society (2017) 395 ITR 611 (Karn), as had been relied upon by the ld. D.R before us, had held, that a cooperative society would not be entitled to claim deduction under Sec. 80P(2)(d); but then, the Hon’ble High Court 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 cooperative 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. Backed by the aforesaid conflicting judicial pronouncements, we may herein observe, 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. 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 that of the 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."*

*3. Following the above said decisions, we hold that the assessee is entitled for deduction under section 80P(2)(d) of the Act in respect of interest income earned from the cooperative banks. Accordingly, we set aside the impugned order passed by learned CIT(A) and direct the Assessing Officer to allow deduction under section 80P(2)(d) of the Act in respect of interest income earned from the cooperative banks in the year under consideration."*

15. The cumulative effect of the law laid down by Hon'ble Apex Court in Mavilayi (Supra), KSCARDB (Supra) and above referred dictum propounded by Hon'ble High Court of Karnataka and various Co-ordinate benches of this Tribunal, is that where interest or dividend income is derived by a co-operative society from investment with other co-operative societies, the whole of such income is eligible for deduction u/s. 80P(2)(d) of the Act. The assessee is thus entitled for the benefit u/s. 80P(2)(d) of the Act. The aforesaid point is accordingly determined in favor of the assessee and against the revenue. The impugned order passed by learned CIT(A), thus cannot be sustained. Hence, the appeal is liable to be allowed.

16. In the result, the assessee's appeal is allowed. The impugned order dated 08.02.2024 and assessment order

dated 25.03.2021 are set aside. We direct the learned assessing officer to allow the benefit of deduction to assessee u/s. 80P(2)(d) of the Act as discussed hereinabove.

Order pronounced on 19.09.2024.

**Sd/-  
(BR BASKARAN)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Mumbai; Dated 19/09/2024  
Anandi Nambi, *Steno*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

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