

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “A”, PUNE**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	303/PUN/2022	Pragati Gramin Bigarsheti Sahakari Patsanstha Maryadit, Ward No.2, Near Bajartul, Tal. Purandhar, Dist. Pune 412 102 PAN:AACAP1712H	PCIT-4, Pune	2017-18
2	308/PUN/2022	Chairman Mahatma Phule Nagari Sahakari Patsanstha, Rohan Complex, Mahatma Phule Chowk, Sangole, Dist. Solapur-413307 PAN:AAAAC1505F	PCIT-4, Pune	2017-18
3	319/PUN/2022	Shree Choudeshwari Togatveer Kshatriya Nagari Sahakari Patpedhi Maryadit, 94/41, Jodbhavi Peth, Kanna Chowk, Solapur 413 002 PAN : AAAJS1987L	PCIT-4, Pune	2017-18
4	325/PUN/2022	Dhanshree Mahila Gramin Bigarsheti Sahkari Patsanstha Ltd., Gokulbai Nivas, Sant Damaji Road, Shivpremi Chowk, Malgalweda, Solapur 413 305 PAN : AAAJD0435E	PCIT-4, Pune	2017-18
5	330/PUN/2022	Shri Bruhanmath Hotagi Shaikshanik Sanstha, Karmchari Sahkari Patpedi Marya, 84, Bhavani Peth, Solapur 413 002 PAN:AAGAS0646H	PCIT-4, Pune	2017-18
6	332/PUN/2022	Baramati Taluka Sahakari Phalupadan Sangh, At Pimpali, Post Pimpali, Taluka Baramati, Dist Pune 413102 PAN:AAATB5269Q	PCIT-4, Pune	2017-18
7	349/PUN/2022	Chhatrapati Sambhaji Maharaj Sahkari Pat Sanstha Maryadit, At Post Pimpode Budruk, Tal. Koregaon, Satara – 415 525 PAN : AAAAC0993P	PCIT-3, Pune	2017-18

8	351/PUN/2022	Keshavsmruti Nagari Sahakari Patpedhi Ltd., 102/103, Aaditya Vihar CHS, Mahatma Phule Road, Panvel 410206 PAN:AAAAK7390L	PCIT-1, Thane	2017-18
9	352/PUN/2022	Kundalika Nagari Sahakari Patsanstha Maryadit, Ground Floor, Varun Apartment, Near Bhate Vachanallya, Sonar Ali, Roha 402109 PAN:AACAK6478R	PCIT-1, Thane	2017-18
10	353/PUN/2022	Hindalco Employees Co.op Credit Society Ltd., C/o. Hindalco Ind Ltd., P.Box No.5, Plot No.2, Taloja-410208 PAN:AAAJH0270M	PCIT-1, Thane	2017-18
11	356/PUN/2022	Hinglajmata Nagri Sahakari Patsanstha Maryadit, 21/22, Vidya Niketan Prashala, Sakhar Peth, Solapur 413 003 PAN:AAAAH1509C	PCIT-4, Pune	2017-18
12	358/PUN/2022	Castlemaine Premises Co.op Society Ltd., Godrej Castlemaine, 42, Sasoon Road, Next to Ruby Hall Clinic, Pune 411001 PAN:AAAAC5155H	PCIT-4, Pune	2017-18
13	367/PUN/2022	Hanumantrao Choudhari Kalbhairavnath Nagari Sahakari Patsanstha Maryadit, Kunjirwadi, Near Naigaon Phata, Solapur Road,Tal. Haveli, Dist. Pune-412 110 PAN:AAAAH2316R	PCIT-4, Pune	2017-18
14	368/PUN/2022	Manmandir Nagari Sahakari Pathasanstha Maryadit, Manmandir Building, Vita Karad Road, Vita, Sangli – 415 311 PAN: AAAAM0519R	PCIT-1, Pune	2017-18
15	374/PUN/2022	ISSK Employees Credit Co.op Society Limited, Mahatma Phule Nagar, Bijwadi, Tal.Indapur, Dist. Pune – 413 106 PAN:AAAAI0101K	PCIT-4, Pune	2017-18

16	385/PUN/2022	M/s. Kamal Mahila Nagari Sahakari Patpedhi Marydit, Ground Floor, Shree Krishna Niwas, Tilak Road, Panvel 410206 PAN : AAATK8008L	PCIT-1, Thane	2017-18
17	391/PUN/2022	Kolhapur Zilla Pradhyapakanchi Sahakari Pat Sanstha Maryadit, 1735 C-Ward, C/o. Suta Office, Hattimahal Road, Laxmipuri, Kolhapur 416 002 PAN:AAAAB4121D	PCIT-1, Pune	2017-18
18	395/PUN/2022	M/s. Kamal Nagari Sahakari Patsanstha Ltd., Kamal Bhavan, Shivaji Road, Alibag, Dist. Raigad 402 201 PAN : AAAJK0269P	PCIT-1, Thane	2017-18
19	396/PUN/2022	B.G. Shirke Employees Cooperative Credit Society Limited, 72-76, Industrial Estate, Mundhawa Road, Pune 411 036 PAN:AAAAB4805H	PCIT-4, Pune	2017-18
20	397/PUN/2022	Jambut Gramin Bigarsheti Sahkari Patsanstha Maryadit, 1 At Post Jambut, Tal. Shirur, Dist. Pune Pincode 410504 PAN: AAAAJ5715E	PCIT-4, Pune	2017-18
21	398/PUN/2022	Mandavgan Pharata Vividhkaryakari Seva Sahakari Sanstha Maryadit, Mandavgan Pharata, Dist. Pune, Shirur 412 211 PAN : AAAAM5026D	PCIT-4, Pune	2017-18

Assessee(s) by

Shri Nikhil S. Pathak & Shri Ajinkya M. Vishampayan
 Shri Kishor Phadke, Shri P.S. Shingte
 Shri Girish Dave & Shri Tanzil R. Padvekar
 Shri Piyush Bafna & Shri Aakash Parakh
 Shri Keyur Patel, CIT-DR

Revenue by

Date of hearing
 Date of
 pronouncement

19-12-2022
 20-12-2022

आदेश / ORDER

PER BENCH:

All the above appeals have been preferred by different assesseees in relation to the A.Y.2017-18 agitating the passing of the order by the Id. Principal Commissioner of Income-tax (PCIT) u/s.263 of the Income-tax Act, 1961 holding that the grant of deduction u/s.80P by the Assessing Officer (AO) in respect of interest income earned from other credit cooperative societies or Nationalised banks led to the passing of erroneous assessment orders prejudicial to the interest of the Revenue.

2. In two appeals, there is a delay of 4 days (ITA No. 368/PUN/2022) and 12 days (ITA No. 391/PUN/2022) in presenting the appeals before the Tribunal. Prima-facie, the delay pertains to the covid-19 pandemic period prevailed across the country. Therefore, the said delay is condoned, admitting the appeals for disposal of merits, by virtue of the judgment of the Hon'ble Supreme Court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314.

3. Succinctly, the facts in all these cases are that the assesses filed returns claiming deduction u/s.80P in respect of interest income which was allowed by the AO. The ld. PCIT invoked the jurisdiction u/s 263 of the Act and disputed the allowability of the claim of deduction u/s.80P(2)(a)(i) in some cases and under 80P(2)(d). Aggrieved thereby, the assesseees have approached the Tribunal.

4. We have heard the rival submissions and gone through the relevant material on record. Insofar as the allowability of deduction u/s.80P(2)(a)(i) is concerned, we find that the Pune Benches of the Tribunal in *Sureshdada Jain Nagari Sahakari Patsanstha Maryadit Vs. The Pr.CIT (ITA No.713/PUN/2016)* decided the question of availability of deduction u/s 80P on interest income by noticing that the Pune Bench in an earlier case of *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit Vs. ITO (ITA No.604/PN/2014)* has allowed similar deduction. In the said case, the Tribunal discussed the contrary views expressed by the Hon'ble Karnataka High Court in *Tumkur Merchants Souharda Credit Cooperative Ltd. Vs. ITO (2015) 230 Taxman 309 (Kar.)* allowing deduction u/s. 80P on interest income and that of the Hon'ble Delhi High Court in *Mantola Cooperative Thrift Credit Society Ltd. Vs. CIT (2014) 110*

DTR 89 (Delhi) not allowing deduction u/s.80P on interest income earned from banks. Both the Hon'ble High Courts took into consideration the *ratio* laid down in the case of *Totgar's Cooperative Sale Society Ltd. (supra)*. No direct judgment from the Hon'ble jurisdictional High Court on the point having been pointed out, the Tribunal in *Shri Laxmi Narayan Nagari Sahakari Pat Sanstha Maryadit (supra)* preferred to go with the view in favour of the assessee by the Hon'ble Karnataka High Court in the case of *Tumkur Merchants Souharda Credit Cooperative Ltd. (supra)*. The position continues to remain the same before this Tribunal also.

5. Reliance of the Id. Pr. CIT in some of the cases under consideration on the decision of *Pr. CIT and Another Vs. Totagars Cooperative Sales Society (2017) 395 ITR 611 (Kar.)* is not relevant. The issue in that case was the eligibility of deduction u/s.80P(2)(d) of the Act on interest earned by the assessee co-operative society on investments made in co-operative banks. In that case, the assessee was engaged in the activity of marketing agricultural produce by its members; accepting deposits from its members and providing credit facility to its members; running stores, rice mills, live stocks, van section, medical shops, lodging,

plying and hiring of goods and carriage etc. It was in that background of the facts that the Hon'ble High Court held that the assessee could not claim deduction u/s.80P(2)(d) of the Act. When we consider the effect of this decision, it turns out that the same is not germane to case under consideration in view of the position that the primary claim of the extant assessee is directly about the eligibility of deduction u/s.80P(2)(a)(i) of the Act.

6. Coming to the cases of eligibility of deduction u/s.80P(2)(d), the respective assessees are Cooperative credit societies engaged in providing credit facilities to its members. The Id. PCIT has held the assessment order to be erroneous and prejudicial to the interest of the Revenue only on the ground that the claim of deduction u/s.80P on interest income was not in order. In this regard, it is observed that though co-operative banks, other than primary agricultural credit society or a primary co-operative agricultural and rural development bank, are not eligible for deduction pursuant to insertion of section 80P(4) w.e.f. 1.4.2007, but this provision does not dent the otherwise eligibility u/s 80P(2)(d) of the Act of a co-operative society on interest income on investments/deposits parked with a co-operative bank, which is a registered co-operative society as per section 2(19) of the Act, defining co-operative society

to mean a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the time being in force. The assesseees are also Co-operative society registered.

7. Similar view has been taken by the Pune Benches of the Tribunal in several cases including *The Sesa Goa Employees Coop. Credit Society Ltd. Vs. ACIT (ITA No.203/PUN/2019, order dated 16-11-2022)*.

8. In view of the fact that the Pune Benches of the Tribunal in series of decisions have held that the assesseees are entitled to deduction u/s.80P(2)(a)(i)/80P(2)(d) in respect of interest income, we hold that the impugned orders cannot be sustained. All the orders are, therefore, overturned.

9. In the result, all the appeals are allowed.

Order pronounced in the Open Court on 20th December, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 20th December, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A) concerned
4. The CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे “A” /
DR ‘A’, ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	19-12-2022	Sr.PS
2.	Draft placed before author	20-12-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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