IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,
CHIEF JUSTICE
&

HON'BLE SHRI JUSTICE VIVEK JAIN

INCOME TAX APPEAL No. 31 of 2026
CNR No.: MPHC010697052026

PR. COMMISSIONER OF INCOME TAX-1

Versus

M.P. MATSYA MAHASANGH SAHKARI

Appearance:

Shri Siddharth Sharma and Shri Mayank Upadhyaya - Advocates for appellant.

JUDGMENT
(Reserved on: 13.10.2026)
(Pronounced on: 17.11.2026)

Per*: *Hon'ble Shri Justice Alpesh Y. Kogje, Chief Justice

This appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as "**the Act of 1961**") is preferred by the appellant/department being aggrieved by the order of the Income Tax Appellate Tribunal, Indore Bench, Indore in ITA No.328/IND/2024 dated 27.03.2026 pertaining to the Assessment Year 2017-2018.

2. The assessee, being a Cooperative Society, is engaged in managing the dams of the State Government and fisheries work through its members. For

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the assessment year under consideration, the assessee had earned interest income from the Cooperative Banks and claimed the same as eligible deductions under Section 80P(2)(d) of the Act of 1961 which came to be disallowed by the Assessing Officer and confirmed by the Commissioner of Income Tax (Appeals). The assessment years under consideration were 2014-15, 2015-16, 2017-18, 2018-19 and 2020-21. With regard to assessment year 2020-2021, the Assessing Officer also made a disallowance under Section 14A read with Rule 8D confirmed by the CIT Appeals and this action was a subject matter of challenge before the Income Tax Appellate Tribunal on two issues i.e. deduction under Section 80P(2)(d) of the Act of 1961 and disallowance under Section 14A read with Rule 8D.

3. The facts that can be gathered are that the assessee received interest income of Rs.5,92,55,175/- from Cooperative Banks on which deduction under Section 80P has been claimed. The assessment was completed under Section 143(3) of the Act of 1961 vide order dated 26.11.2019 assessing total income of Rs.26,84,02,925/- after making disallowance of deduction claimed under Section 80P(2)(d) of Rs.5,92,55,175/-.

4. It is a case of the Department in the present appeal that during the course of assessment proceedings for Assessment Year 2017–18, the assessee submitted that the provisions of Section 80P(4) of the Act of 1961 were not applicable to its case. The assessee contended that Section 80P(4) excludes the applicability of Section 80P in the case of Cooperative Bank, except

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primary agricultural credit society and primary cooperative agricultural and rural development bank. However, the assessee itself was not engaged in the business of banking but had derived interest income from investments made with cooperative societies engaged in the business of banking. Accordingly, the assessee argued that it was eligible to claim a deduction under Section 80P(2)(d) in respect of such interest income amounting to Rs.5,92,55,175/- for Assessment Year 2017–18.

5. The Assessing Officer considered the submissions of the assessee but did not find them acceptable. The Assessing Officer observed that Section 80P(2)(d) provides for a deduction in respect of income by way of interest or dividends derived by a cooperative society from its investments with another cooperative society. However, according to the Assessing Officer, in view of Section 80P(4), cooperative banks are excluded from the scope of Section 80P, except for the specifically exempted categories of cooperative banks. On this basis, the Assessing Officer took the view that a cooperative bank could not be treated as a cooperative society for the purpose of allowing a deduction under Section 80P(2)(d) of the Act of 1961.

6. The Revenue has raised the following substantial questions of law:-

> *"1. Whether, on the facts and in the circumstances of the case, order of the Hon'ble ITAT was justified in deleting the disallowance of deduction claimed u/s 80P(2)(d) totalling to Rs.5,92,55,275/- being FDR interest received of Rs.1,13,43,886/- from Bhopal Co-operative Central Bank and Rs.4,79,11,289/- from Apex Bank.*
>
> *2. Whether on the facts and in the circumstances of the case and pursuant to sub-section (4) of section 80P, the order of Hon'ble ITAT*

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suffers from perversity in overturning the decision of the Ld. CIT(A) of deleting the claim of deduction u/s 80P(2)(d) of Rs.5,92,55,175/- on account of interest income earned on FDRs, with co-operative banks without appreciating or enquiring.

3. That Hon'ble Karnataka High Court in the case of PCIT vs. Totagar's Co-operative Sale Society (2017) 83 taxmann.com 140 (Karnataka) (Paras 14, 23) has specifically decided the Question of Law about the allowability of interest earned from deposits with co-operative bank u/s 80P(2)(d) of the Income Tax Act in favour of Revenue.

4. Whether on facts and within the legal spectrum of the case, the Hon'ble ITAT justified in law in distinguishing the decision of the Hon'ble Supreme Court in Totgars' Co-operative Sale Society Ltd. v. ITO, (2010) 322 ITR 283 (SC), merely on the ground that the said decision considered section 80P(2)(a)(i).

5. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT erred in law in invoking the principle laid down by the Hon'ble Supreme Court in CIT v. Vegetable Products Itd., (1973) 88 ITR 192 (SC), merely holding that even if there are two views on this issue, the assessee shall be entitled to favourable view.

6. Whether on the facts and circumstances of the case and in law, the findings given by the Hon'ble ITAT which deleted the disallowance of deduction claimed u/s 80P(2)(d), suffers from perversity as it failed to allude to relevant facts, misread the evidence and its probative value and the legal position in view of ratio of decisions in several cases including in the case of Sudarshan Silk and | Sarees 30 ITR 205 (SC)?"

7. The aforesaid being questions of fact raised in the appeal, in the opinion of this Court, the substantial question of law that arises for consideration of the Court is the "interpretation of Section 80P(2)(d) of the Income Tax Act vis-a-vis the Cooperative Bank and Cooperative Society as they respectively appear under the provisions of Section 194A(3)(v) and deliberately not using of the word "Cooperative Banks" in Clause (d) of Section 80P(2) of the Act".

8. According to the Department, though the substantial questions framed are narrated hereinabove, however, the same appear to be substantial questions of fact called upon to be decided. The Court is of the opinion that

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any question of law cannot be treated as a substantial question of law which can be taken up for consideration under the Tax appeal. The Apex Court in the case of **Santosh Hazari vs. Purushottam Tiwari,** reported in **(2001) 3 SCC 179** has in para 14 held regarding this as under:-

> *"14. A point of law which admits of no two opinions may be a proposition of law but cannot be a substantial question of law. To be "substantial", a question of law must be debatable, not previously settled by law of the land or a binding precedent, and must have a material bearing on the decision of the case, if answered either way, insofar as the rights of the parties before it are concerned. To be a question of law" involving in the case" there must be first a foundation for it laid in the pleadings and the question should emerge from the sustainable findings of fact arrived at by court of facts and it must be necessary to decide that question of law for a just and proper decision of the case. An entirely new point raised for the first time before the High Court is not a question involved in the case unless it goes to the root of the matter. It will, therefore, depend on the facts and circumstance of each case whether a question of law is a substantial one and involved in the case, or not; the paramount overall consideration being the need for striking a judicious balance between the indispensable obligation to do justice at all stages and impelling necessity of avoiding prolongation in the life of any lis."*

9. The Court is of the opinion that the substantial question of law involved in this case is: **"Whether an income of interest earned by a Cooperative Society on investment in Cooperative Bank, is covered for deduction under Section 80P?"**

10. The Department contends that the appeal pertains to interpretation between Section 80P(2)(d) and Section 80P(4) of the Act of 1961 relying upon Bombay High Court judgment claiming that identical issue is involved referring to **Poonam Cooperative Society vs. I.T.O.** in ITA No.1287/Mum/2026 dated 20.04.2026.

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10.1 It is argued that in **Poonam Cooperative Society** (supra) Bombay High Court considered the decision of the Supreme Court in the case of **Totagars Co-operative Sale Society Ltd. Vs. ITO,** reported in **(2010) 322 ITR 283 (SC)** where according to the Supreme Court society regularly investing funds earn interest on such investment cannot fall within the meaning of the expression "profit and gains of business" and such income cannot be attributable to the activities of the society.

11. The facts are that assessee is a Cooperative Society engaged in managing dams of the State Government and fisheries work through its members. For the relevant Assessment Years 2014-15, 2015-16, 2017-18, 2018-19 & 2020-21 under consideration, the assessee earned interest income from co-operative banks amounting to Rs.1,79,26,310/-, Rs.3,02,73,908/-, Rs.5,92,55,175/-, Rs.4,92,94,660/- and Rs.5,59,74,888/- and claimed the same as eligible for deduction u/s 8OP(2)(d). However, the AO disallowed deduction which the CIT(A) confirmed. Further, in AY 2020-21, the AO also made a disallowance of Rs.20,47,000/- under Section 14A read with Rule 8D which also the CIT(A) confirmed.

12. The assessee preferred departmental appeals I.T.A. No.328 to 330 & 358, 359/Ind/2024 which were allowed holding that the consistent judicial view that emerges is that Section 8O0P(2)(d) of the Act of 1961 grants deduction in respect of interest income earned by a “co-operative society" from investments made with another “co-operative society”. A co-operative

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bank, being registered under the relevant Co-operative Societies Act, partakes the character of a “co-operative society” Thus, the interest income earned by a “co-operative society" from a “co-operative bank" would squarely fall within the ambit of Section 80P(2)(d) of the Act of 1961. Furthermore, the provisions of Section 80P(4) excludes only a “co-operative bank” from claiming deduction under Section 80P. The embargo contained in Section 80P(4) is applicable only to an assessee which is a “co-operative bank" but not to an assessee which is a “co-operative society” earning interest from a “co-operative bank”, We make it clear that every “co-operative bank" is a “co-operative society” but reverse is not true i.e. every “co-operative society” is not a “co-operative bank”.

13. The provisions of the Income Tax Act, 1961 relevant for the purpose of this case are Sections 2(19), 80P(2)(a)(vii), 80P(2)(d), 80P(4), 194A(3)(v) which read as under:-

> *“**2. Definitions**.—In this Act, unless the context otherwise requires.---*
> *(1)* *** *** ***
> *(2)* *** *** ***
> *(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.”*
>
> ***“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) In the case of a co-operative society engaged in –*
> *(i)* *** ***
> ***
> *(ii)* *** ***
> ***

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(vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members."

***"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 co-operative society from its investments with any other co-operative society, the whole of such income;

(e) *** *** ***"

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

(1) *** *** ***

(2) *** *** ***

(3) *** *** ***

(4) The provisions of this section shall not apply in relation to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation.--- For the purposes of this sub-section,---

(a) "co-operative bank" and "primary agricultural credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(b) "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities."

"Section 194A. Interest other than "Interest on securities".—

(1) *** *** ***

(2) *** *** ***

(3) The provisions of sub-section (1) shall not apply—

(i) *** *** ***

(ii) *** *** ***

(iii) *** *** ***

(iv) *** *** ***

(v) to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;

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*[Explanation.—For the purposes of this clause, "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 *(1949);]*

(vi *** *** ***"

14. The facts necessary for the purpose of deciding the question are that during the year the assessee has claimed deduction under Section 80P(2)(d) on account of interest received from co-operative bank on FDRs amounting to Rs.5,92,55,175/-. The assessee in response to the show cause notice vide reply submitted on 09.11.2019 submitted that the provisions of Section 80P(4) do not apply to income derived by an assessee being a cooperative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. The assessee has derived income from co-operative societies engaged in the business of banking while the assessee itself is not engaged in the business of banking and, therefore, provisions of Section 80P(4) are not applicable on the assessee and the assessee is eligible for claiming deduction of income as the same suggests that assessee is a Cooperative Society engaged in fishing activity.

15. The CIT (Appeals) confirmed the order of Assessing Officer disagreeing with the grounds and contention of the assessee and agreeing to the conclusion of the Assessing Officer that Section 80P(4) will not apply to any Cooperative Bank as Cooperative Bank will have meanings assigned to it in Part V of Banking Regulation Act.

16. The Assessee preferred an appeal before the Tribunal which allowed the appeal by reversing the order in appeal by CIT(A).

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17. The admitted fact is that the assessee is a Cooperative Society and it has earned interest from an investment made in a Cooperative Bank.

18. The controversy is that as the assessee has earned interest from a Cooperative Bank which according to the Department is not a Cooperative Society the assessee Cooperative Society is not eligible for deductions under Section 80P(2)(d) of the Act of 1961.

19. The Tribunal in its impugned order dated 27.03.2026 referred to various decisions of various High Courts/Tribunals such as PCIT vs. Ashwinkumar Arban Co-operative Society Ltd., (2024) 168 taxmann.com 314 (Gujarat); Sikkim State Co-operative Supply and Marketing Federation Ltd. Vs. DCIT, (2025) 181 taxmann.com 494 (Sikkim); Thorapadi Urban Co-operative Credit Society Ltd. Vs. ITO, (2023) 156 taxmann.com 419 (Madras); Indore Sahakari Dugdh Sangh Maryadit Dairy Compound vs. ACIT/ITO-ITA No.293 & 294/INd/2024, order dated 17.09.2024 (ITAT Indore); Pathare Prabhu Co-operative Housing Society Ltd. Vs. ITO, (2023) 153 taxmann.com 714 (ITAT Mumbai); Shree Raj Crystal Co-operative Housing Society Ltd. Vs. ADIT, ITA No.5769/Mum/2025, order dated 27.11.2025 (ITAT Mumbai) cited by the assessee and the cases of Savanoor Primary Agriculture Co-operative Society Ltd., (2024) 159 taxmann.com 1493 (ITAT Bangalore), Paravur Service Co-operative Bank Ltd. Vs. ITO, (2018) 96 taxmann.com 654 (Cochin Tribunal) cited by the department as

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well as decision of the Apex Court in the case of Totagars Co-operative Sale Society Ltd. (supra).

20. For deciding the substantial questions of law, the bare reading of the relevant provisions supra itself would clear the clouds.

21. Section 2(19) defines a "Cooperative Society" to mean a society registered under the Cooperative Societies Act or under any other law for the time being in force in a State for regulation of the cooperative societies. This definition does not distinguish one society from other on the basis of the functioning or nature of activity in which society is involved. So all the societies registered under Cooperative Societies Act be it engaged in activity of Housing, Agriculture produce, Financing or Banking all societies are brought at par by this definition.

22. A very specific provision Section 80P provides for deduction in respect of the income of Cooperative Societies. Section 80(P) reads that in case of Cooperative Societies the gross total income includes the income referred to in sub-section (2) of 80P and in computing the total income there shall be deductions of the sums also specified in sub-section (2). Therefore, Section 80(P)(2) can be understood to categorize the income generated from its principal activities as covered in Section 80P(2) and includes income generated as per Section 80P(2)(d). This sub-section and sub-clause covers the income for deduction of interest generated from investment in a Cooperative Society and whole of such income is to be deducted.

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23. Here also there is no differentiation by legislation between a Cooperative Society engaged in fishery and Cooperative Society engaged in banking.

24. The argument of the department can be appreciated on the basis of Section 80P(4) that the provision of the Section 80P will not apply to any Cooperative Bank as Section 80P(4) excludes the application for the purpose.

25. We have to understand the application of the Section 80P by connecting it with purpose for which the Section is enacted. The purpose of the section is to provide for deduction in respect of the income of Cooperative Societies and, therefore, when Section 80P(4) specifically excludes a Cooperative Bank from getting benefit of the Section 80(P) which means in a case when assessee is itself a Cooperative Bank, then the deductions as provided for in Section 80(P) will not be available. The same cannot be understood as an interest income generated by a Cooperative Society out of investment in a Cooperative Bank, will also be covered in Section 80P(4).

26. This interpretation will clearly mitigate against the very purpose of Section 80(P) and the very reason why the definition of all Cooperative Societies have been kept in one fold.

27. The Court has also examined the usage of Part V of Banking Regulation Act, 1949 in Section 80P(4)(a) where again from the fold of “Cooperative Bank” being excluded a "Primary Agricultural Credit Society" is still excluded meaning thereby the Primary Agricultural Credit Society will

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continue to get the benefit of Section 80P for deductions. This is again to reaffirm the view of the Court that the purpose of the Section 80P itself is to encourage a cooperative movement in various sectors and protect their interest income generated from investments in another "Cooperative Society" which also includes a "Cooperative Bank".

28. From the standpoint of Section 194A(3)(v) also, the income credited or paid by a Cooperative Society other than Cooperative Bank, the provision only refers to the income and protects the interest earned on investment.

29. For the aforesaid reasoning, the Court does not find reasons on facts to interfere with the decision of the Tribunal vide impugned order dated 27.03.2026 and the answer to the substantial question of law is that the interest earned by a Cooperative Society from investment in a Cooperative Bank, is covered under Section 80P of the Act of 1961 as a deduction in respect of the Cooperative Society being an assessee in computing the total income of the assessee.

30. Accordingly, the appeal stands **dismissed**.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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