

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND  
SHRI AMARJIT SINGH, JM**

आयकर अपील सं/ I.T.A. No.3733/Mum/2019

(निर्धारण वर्ष / Assessment Year: 2014-15)

ITO-21(2)(2) Piramal Chambers, 1 <sup>st</sup> Floor Room NO.111 Lalbaug, Parel Mumbai-400 012	<b>बनाम/</b> Vs.	MTNL Mumbai Employees Cooperative Credit Society Limited Shivaji Park, Telephone Exchange Compound, Anant Patil Marg, Dadar Mumbai-400 028
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAAAM1777H</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Revenue by:	Shri Bharat Anahale (DR)	
Assessee by:	Deepak Tikekar, AR	

सुनवाई की तारीख / Date of Hearing: 12/01/2021

घोषणा की तारीख /Date of Pronouncement: 27/01/2021

**आदेश / ORDER**

**PER AMARJIT SINGH, JM:**

The revenue has filed the present appeal against the order dated 13/03/2019 passed by the Commissioner of Income Tax (Appeals) -32, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2014-15.

2. The revenue has raised the following grounds: -

1. "Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is justified in allowing the deduction u/s. 80P(2)(d) of the Income Tax Act, 1961 amounting to Rs. 97,80,230/- for without appreciating the action of the A.O. in this regard ?"



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2. *"Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in not appreciating the fact that since the assessee fulfils the conditions laid down u/s. 56(c)(ccv) of the Part V of Banking Regulation Act, 1949, it is to be considered as a co-operative bank, and therefore under the purview of a co-operative bank, the assessee is not eligible for deduction u/s. 80P(2)(d) of the Income Tax Act, 1961?"*

3. *"Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is justified in allowing the deduction u/s. 80P(2)(d) of the Income Tax Act, 1961 as per the ground of appeal of the assessee, without appreciating the fact that in the instant assessment year, the assessee has failed to substantiate the source of bank from which it has earned interest income. Further in assessee's own case, it is noticed that assessee earned interest from Cooperative banks."*

4. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in the disallowance of the deduction u/s. 80P(2)(a)(i) of Rs.3,49,62,187/- without appreciating the action of the AO."*

5. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the fact that the assessee fulfils the condition laid down u/s. 56(c) (ccv) of part V of Banking Regulation Act, 1949 and covered under purview of co-operative bank and attracts the provision of section 80P(4) of the Income-Tax Act, 1961 and thus the assessee is not eligible for deduction u/s. 80P(2)(a)(i) r.w.s. 80P(4) of the Income-Tax Act, 1961."*

6. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred In ignoring the fact that the assessee provides loan and advances to its members, such activities are carried out only by a scheduled bank or non-scheduled bank or a co-operative bank."*

7. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that are different in this case than Judgement of Hon'ble Bombay High Court in the case of Quepem Urban Co-operative Credit Society Ltd. Vs. AOT dated 17,04.2015(2015) 58 [taxmann.com](http://taxmann.com) 113(Bombay)."*

8. *"The appellant prays that the order of the Ld.CIT(A) on the above grounds be set-aside and that of the Assessing Officer be restored."*



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9. *"The appellant craves leave to amend or to alter any ground or add a new ground, which may be necessary."*

3. The brief facts of the case are that the assessee filed its return of income on 25/11/2014 declaring a total income to the tune of Rs. "Nil". The assessment was selected for scrutiny under CASS. The notices u/s 143(2) and 142(1) of the Act were issued and served upon the assessee. The assessee was an employee's co-operative credit society, catering to its members. The business activity carried out by the society was mainly that of borrowing from banks and lending of funds/providing credit facilities to its own members under various schemes formulated by it, just as a bank. The paid up capital of the society as on 31/03/2013 was Rs.3,34,30,782/- and reserves and surplus was Rs. 4,58,21,356/-. The assessee was having bank balance of Rs. 1,35,15,155/- mainly with Maharashtra District Central Co-op Bank and ICICI Bank. The investment was to the extent of Rs. 42,00,92,288/-. The loan and advances was given to the tune of Rs. 1,89,84,52,118/- by way of long term loan. The emergency loan was shown in sum of Rs. 4,89,86,982/-, hire purchase loan was shown at Rs. 84,263/- and advance to the staff was to the tune of Rs. 27,30,970/-. The assessee had also shown the total receipt sum of Rs. 23,39,63,328/- by way of interest including interest from deposit with the M.D.C. Co-op Bank of Rs. 93,26,570/-. The assessee also received the dividend income in sum of Rs. 4,53,660/- from MDC Co-op bank. The Assessee claimed the exemption in sum of Rs. 3,49,62,187/-- u/s 80P(2)(a)(i) and a sum of Rs. 97,80,230 u/s 80P(2)(d). As such the total exemption was claimed to the tune of Rs. 4,47,42,417/- u/s 80P of the I.T.Act, 1961. The show-cause notice was issued for the justification and after the reply, the claim u/s 80P



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of the Act,1961 was declined. Feeling aggrieved, the assessee filed appeal before the Ld.CIT(A) who allowed the claim of the assessee., therefore, the revenue has filed the present appeal before us.

**ISSUE NO. 1 to 3:-**

4. Mainly all these grounds are in connection with the disallowance of claim u/s 80P(2)(d) of the Act. At the very outset, the Ld. Representative for assessee has argued that the issue has duly been covered by the decision of the Hon'ble ITAT in assessee's own case bearing ITA No. 7634/M/2016 titled as ITO-21(2)(2) vs MTNL (Mumbai employees Co-op Society), therefore, the claim of the assessee has rightly been allowed by the CIT(A). However, on the other hand Ld. DR has argued that the claim of the assessee has wrongly been allowed by the Ld.CIT (A), therefore, the revenue has filed the present appeal. Anyhow before going further, we deem it necessary to advert the finding of the CIT(A) on record.: -

*5.3 I have considered the assessment order, the submissions and details filed by the appellant. In this regard, I find that the interest income from fixed deposits and dividend income on investment made with the other cooperative bank has rightly been treated as income from other sources. The provisions of section 80P(2)(d) also provide for full deduction of any income from interest or dividends derived by the cooperative society from its investments with any other cooperative society.*

*5.3.1 I find that the AO has disallowed the deduction of Rs.97,80,230/- u/s 80P(2)(d) on the ground that the interest income was received from cooperative bank which is a commercial bank and does not fall in the category of a cooperative society. I find that the above said finding of the AO is not correct since a Cooperative bank, is also a cooperative society registered under*



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*the Cooperative Societies Act, 1912 or under any other law for the time being enforced in any State for the registration of cooperative societies and the interest income earned from deposits with such banks will be eligible for deduction u/s 80P(2)(d) of the Act. For instance, it is noted that The Mumbai District Central Cooperative Bank Ltd. is a central financing agency of all affiliated co-operative societies in Mumbai district, which is popularly known as "MUMBAI BANK" and is registered under Maharashtra Cooperative Societies Act 1960 in the year 1974 and started its functioning on 12th Feb. 1975.*

*Further the provision of section 80P(4), inserted w.e.f. 01.04.2007, states that the provision of section SOP shall not apply in relation to any cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank. Since the provision of section SOP allows for certain deduction in respect of income of cooperative societies, insertion of 80P(4) has excluded one category of such cooperative societies from such deduction i.e. the cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank. The AO is not correct in holding that the deduction u/s 80P(2)(d), allowable to a cooperative society on the interest and dividend income earned*

*from investment with any other cooperative society will not be an allowable deduction if such -investment has-been made with a cooperative*

*In this regard reliance is placed on the following decisions:*

*i) [2018] 94 taxmann.com 15 (Mumbai - Trib.) KaliandasUdyogBhavan Premises Co-op Society Ltd. v. Income-tax Officer-21(2)(1J, Mumbai for AY 2014-15 dated 25.04.2018. The facts of that case are considered in brief as under-*

- The assessee was a co-operative society. During relevant year assessee earned interest on deposits kept with co-operative banks. m The assessee filed its return claiming deduction under section 80P(2)(d) on interest so earned.*
- The Assessing Officer opined that interest income by the assessee-credit society was not earned from the activity of providing banking facilities to its members and was outside the 'purview of 'Principle of Mutuality'. He thus rejected assessee's claim for deduction. The Assessing Officer had taken support of the judgment of the Hon'ble Supreme Court in the case of Bangalore Club v. CTT[2013] 29 taxmann.com 29/212 Taxman 566/350ITR*



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509 and in the case of Totgars Co-operative Sale Society Ltd. v. ITO [2010] 188 Taxman 282/322 ITR 283 (SC). \* ' . -

- The Commissioner (Appeals) was of the view that the interest income earned by the assessee from investments made with a scheduled bank or cooperative bank for a time period could not be said to be for the purpose of the cooperative housing society of the assessee and hence, would not be eligible for claim of deduction under section 80P(2)(d). He thus sustained the disallowance made by Assessing Officer.

**In these facts the jurisdictional ITAT has held as under and appeal filed by the assessee has been allowed –**

- The issue involved in the present appeal hinges around the adjudication of the scope and gamut of sub-section (4) of section SOP, as had been made available on the statute by the legislature vide the Finance Act, 2006, with effect from 1-4-2007, The lower authorities had taken a view that pursuant to insertion of sub-section (4) of section SOP, the assessee would no more be entitled for claim of deduction under section 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. The lower authorities had observed that as the co-operative banks with which the surplus funds of the assessee were parked as investments, were neither Primary Agricultural Credit Society nor a Primary Cooperative Agricultural and Rural Development Bank, therefore, the interest income earned on such investments would not be entitled for claim of deduction under section 80P(2)(d). [Para 6]

- From a perusal of the section 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. What is relevant for claim of deduction under section 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. Though the observations of the lower authorities are correct that with the insertion of sub-section (4) of section SOP, vide the Finance Act, 2006, with effect from 01-04-2007, the provisions of section SOP would no more be applicable in relation to any co-operative bank,



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*other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, but their view that the same shall also jeopardise the claim of deduction of a co-operative society under section 80P(2)(d) in respect of the interest income on their investments parked with a co-operative bank cannot be accepted,*

- *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. section 80P(2)(d) would be duly available. The term 'co-operative society'<sup>1</sup> had been defined under section 2(19) of the Act.*

- *It is opined that though the co-operative bank pursuant to the insertion of sub-section (4) of section SOP would no more be entitled for claim of deduction under section SOP, but however, as a co-operative bank continues to be a cooperative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being enforced in any State for the registration of cooperative 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 section 80P(2)(d). /Para 7] ••.-- .*

- *Thus in the backdrop of aforesaid observations the view taken by the lower authorities that the assessee would not be entitled for claim of deduction under section 80P(2)(d), in respect of the interest income on the investments made with the co-operative bank cannot be accepted. Thus the order of the lower authorities is set aside and it is concluded that the interest income earned by the Appellant's own case for AY 2013-14 has been decided in ITA No.7352/Mum/2016 by the ITAT Mumbai allowing deduction u/s 80P2(d) on the interest income earned from MDC cooperative Bank Ltd.*

*iii) ITO v. Citiscape Co-op. Housing Society Ltd. for A.Ys. 2011-12 and 2012-13 [ITA Nos. 5435-5436/Mum/2017 dated 08.12.2017 in which the ITAT Mumbai has held as under:-*

*\**

*"3. The AO took the view that the income of co-operative banks is not deductible u/s SOP of the Act in terms of sec. 80P(4) of the Act and consequently the provisions of sec.SOP cannot be availed by the assessee in respect of income received from, co-operative bank. Accordingly the AO reopened the assessments of both the years under consideration and rejected the claim for deduction u/s*



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*80P(2)(d) of the Act in respect of interest income received from co-operative banks.*

*4. The Ld CIT(A) allowed the claim of the assessee in both the years by following the decision rendered by Hon'ble Karnataka High Court in the case of PCJT vs. Totagars Co-operative sale society (2017)(392 ITR 74), wherein the Hon'ble Karnataka High Court had held that the co operative banks are cooperative societies. Aggrieved, the revenue has filed these appeals.*

*5. The Ld D.R submitted that the Hon'ble Karnataka High had delivered the decision reported in 392 ITR 74 on January 5, 2017. However, in its subsequent decision in the case of very same assessee, the Hon'ble Karnataka High Court has taken a different view, viz., in the case of The Principal CIT Vs. The Totagars Co-operative Sale Society (Income tax Appeal No. 100066 of 2016 & others dated 16-06-2017), The Hon'ble Karnataka High Court has expressed the view that the interest income earned from co-operative banks is not different from the interest earned from Scheduled bank and hence clause (d) of Section 80P(2) of the Act would not apply to interest earned from deposits kept with co-operative bank.*

*6. On the contrary, the Ld A.R submitted that the fact that the cooperative banks are basically co-operative societies only cannot be denied. H\$ submitted that the Hon'ble High Court of Himachal Pradesh has taken the view in the case of CIT Vs. Kangra Co-operative bank Ltd (2009)(309 ITR 106) that co-operative banks are cooperative societies and hence the interest income from investments made in any co-operative society could be entitled for deduction u/s 8QP(2)(d) of the Act. He submitted identical claim made in respect of interest income earned from cooperative banks has been allowed by the SMC bench in the case of MurudeSahakariParsansthaMaryadid (ITA No.1058/Mum/ 2017 dated 21-08-2017) and by the division bench in the case of Lands End Co-operative Housing Society Ltd (ITA No.3566/ Mum/2014 dated 15-01-2016).*

*7. I heard the parties and 'perused the record. I notice that the Hon'ble Karnataka High Court has initially taken the following view in the case of Totagars Co-operative Sale Society Ltd (392 ITR 74) '....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 Cooperative society Bank is merely a variety of the Cooperative Societies. Thus*





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*the Co-operative Bank which is a species of the genus would necessarily be covered by the word 'Cooperative Society',.....*

*Admittedly, the interest which the assessee responded had earned was from a Co-operative Society Bank. Therefore, according to Sec. 80P(2)(d) of the I.T Act, the said amount of interest earned from a Co-operative Society Bank would be deductible from the gross income of the Co-operative Society in order to assess its total income. . ' .*

*8. However, the very same Hon'ble Karnataka High Court in the very same assessee's case in ITA No. 100066 of 2016 & others dated 16-06-2017 has taken the view that the interest income earned by a co-operative society from a cooperative bank is not deductible u/s 80P(2)(d) of the Act.*

*9. The Ld A.R has referred to me the decision rendered by Hon'ble Himachal Pradesh High Court in the case of Kangra co-operative bank Ltd (supra), wherein the High Court has observed as under: '....Furthermore, the investments have been made in H.P. State Cooperative Bank which is also a co-operative society and therefore even under sec. 80P(2)(d) of the Act, interest income from investments made in any co-operative society would also be entitled for deduction."*

*10. Thus, I notice that there are divergent views on this matter. The Hon'ble Karnataka High Court has expressed the view that the deduction u/s 80P(2)(d) would not be available in respect of interest income received from co-operative bank, whereas the Hon'ble Himachal Pradesh High Court has held that the said deduction would be available. The Hon'ble Supreme Court has held in the case of Vegetable Products Ltd (88 ITR 192) that if two reasonable constructions of a taxing provision are possible that construction which favours the assessee must be adopted. By applying the said principle, the view taken by Hon'ble Himachal Pradesh High Court, which is in favour of the assessee, is required to be adopted in this case. Accordingly I hold that the interest income earned by the assessee from Co-operative banks, which are basically co-operative societies carrying on banking business, is deductible u/s 80P(2)(d) of the Act. On this reasoning, I uphold the decision taken by Ld CIT(A) in both the years on this issue".*

**5.3.2** *In view of the above discussion and following the decision of the ITAT, Mumbai in appellant's own case for A.Y. 2013-14, it is held that the appellant would be entitled for claim of deduction*



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*under Sec. 80P(2)(d) of the Act in respect of interest and dividend income earned by it, on the investments held with the co-operative bank i.e. MDC Co-operative Bank Ltd. Accordingly, the AO is directed to allow the deduction u/s 80P(2)(d) of the Act amounting to Rs.97,80,230/- and recompute the total income. The **ground no.2 taken by the appellant is allowed.***

5. On appraisal of the above mentioned finding, we find that the the issue has been decided in favour of the assessee by the CIT(A) on the basis of the decision of the Hon'ble ITAT in assessee's own case bearing ITA No. 7352/Mum/2016 for the A.Y.2013-14. The facts are no distinguishable at this stage. Since the issue has duly been decided by the CIT(A) on the basis of the decision of the Hon'ble ITAT bearing ITA No. 7352/Mum/2016, therefore, we are of the view that the Ld. CIT(A) decided the matter of controversy judiciously and correctly, which is not liable to be interfere with at this appellate stage. Accordingly, we upheld the finding of the CIT(A) on this issue and decide these issues in favour of the assessee against the revenue.

#### **ISSUE NO.4 to 7**

6. We have heard the argument advanced by the Ld. Representative of the parties, perused the record. The Ld. Representative of the assessee has argued that the issue has duly been covered by the decision of the Hon'ble ITAT in the assessee's own case bearing ITA No. 7352/Mum/2016 for the A.Y. 2013-14. The CIT(A) has also relied upon the number of decisions which were in favour of the assessee and quoted in the order which are not liable to be reproduced on account of repetition . The Ld. DR has argued that the CIT(A) has wrongly allowed the claim of the assessee, therefore,



the revenue has filed the present appeal. Before going further, it is necessary to advert the finding of the CIT(A) on record.:

4.3 I have considered the AO's order, appellant's submissions and details filed. I find that the appellant is a cooperative credit society carrying on the business of providing credit facilities only to its members who are employees of MTNL located in the City of Mumbai & Raigad District, and cannot be considered as a cooperative bank. This is because the primary object of the appellant is not to do business of banking, which involves accepting deposits from public and making available numerous facilities like issue of cheque, draft etc., but merely to obtain deposits from its members or/and resort to borrowing from cooperative banks and lend funds to its members as per the schemes enumerated in the Registered Byelaws. Further, the appellant does not hold any banking license from RBI. Therefore, AO is not correct in holding that the appellant is a cooperative bank and not eligible for deduction on its income in view of provisions of section 80P(4) of the Act. Accordingly, it is held that the appellant is eligible for deduction u/s 80P(2)(a)(i) in respect of the whole of the profits or gains attributable to the activities of providing credit facilities to its members .

4.3.1 For coming to the above conclusion, reliance is placed on the following decisions .

ij Order of CIT(Appeals)-33 Mumbai in appellant's own case for AY2013-14 dated 17.04.2018 wherein the addition made by the AO on account of . disallowance of deduction u/s 80P(2)(a)(i) has been deleted.

ii) Hon'ble Karnataka High Court in the case of Shri Vardhaman Urban Co-operative Credit Society Ltd. vs. Commissioner of Income Tax (ITA no.

' 100038 of 2014 dated 21-09-2015), has held that all the Co-operative Credit Societies are eligible for deduction u/s 80P(2)(a)(i) unless they are

declared as bank by the Reserve Bank of India.

iii) Quepem Urban Co-operative Credit Society Ltd. Vs ACIT dated 17-04-2015 (2015J 58 taxmann.com 113 (Bombay), wherein it is held that the assessee cannot be considered as a co-operative Bank for the purposes of section 80P(4) of the Act, unless following three conditions are satisfied-

a) the principal business or primary objective should be business of banking



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- b) *b) its paid up share capital and reserves should not be less than rupee one lac*
- c) *c) its bye-laws do not permit admission of any other co-operative society as its member ^*
- d) *iv) Handle Gujarat High Court in the case of CIT v/s. M/s. JafariMominVikas Co-op. Credit, 442, 443 and 863 of 2013 dated 15th January, 2014 wherein it has been held as under: "From CBDT circular No. 133 of 2007 dated 09-05-2007 it can be gathered*
- e) *that sub-section (4) of section 80P will not apply to an assessee which is . not a co-operative bank. In the case clarified by CBDT, Delhi coop Urban Thrift & Credit Society Ltd. was under consideration. Circular clarified that the said entity not being a cooperative bank, section 80P (4) of the Act would not apply to it. In view of such clarification, we cannot entertain the Revenue's contention that section 80P (4) would exclude not only the co-operative banks other than those fulfilling the description contained therein but also credit societies, which are not cooperative banks. In the present case, respondent assessee is admittedly not a credit co-operative bank but a credit co-operative society. Exclusion clause of sub-section (4) of section 80P therefore, would not apply."*

4.3.2 *In view of above discussion the AO is directed to allow deduction u/s 80P(2)(a)(i) of Rs.354,67,647/-, being the income from business activity of providing credit facilities to its members. **Ground No.1 is allowed.***

7. On appraisal of the above mentioned finding, we noticed that the Ld.CIT(A) has placed reliance upon the number of decision such as Vardhman Urban Co-op Society Ltd. and Quepem Urban Co-operative Credit Society Ltd.(supra). Further, we find that the the issue has been duly covered by the decision of the Hon'ble ITAT in assessee's own case bearing ITA No. 7352/Mm/2016 dated 17/04/2018 for the A.Y. 2013-14. The relevant finding is hereby reproduced as under:-

*2.2. The facts in brief, in the present appeal, are that the assessee is a employees co-operative credit society catering to its members.*



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*The main activity carried out by the society was mainly borrowing from banks and lending of funds/providing credit facilities to its own members under various schemes formulated by it. During assessment proceedings, the Ld. Assessing Officer observed that the assessee showed total receipt of Rs.22,21,52,042/- by way of interest including interest from deposits in MDC Co-operative bank amounting to Rs.57,22,046/-. The Ld. Assessing Officer further observed that the assessee claimed deduction of Rs.4,45,67,962/- u/s 80P(2)(a)(i) and Rs.61,75,706/- u/s 80P(2)(d) of the Act. As such the assessee claimed total deduction of Rs.5,07,43,668/- u/s 80P of the Act, which was denied by the Ld. Assessing Officer. On appeal, before the Ld. Commissioner of Income Tax (Appeal), the view taken in the assessment order was affirmed by Ld. Commissioner of Income Tax (Appeal) so far as deduction u/s 80P(2)(d) to the tune of Rs.61,75,706/-, which is under challenge before this Tribunal. However, we find that on identical issue in the case of Income Tax Officer vs M/s Presidency Co-operative Housing Society Ltd. (ITA No.4058/Mum/2017) order dated 06/03/2018 ((supra)), another decision in Income Tax Officer vs M/s The Central Telegraph Office Co-operative Credit Society Ltd. (ITA No.4553/Mum/2016), Lands End Co-operative Housing Society Ltd. (2016) 46 CCH 52 (Mum. Trib.) following the decision in CIT vs Darbhanga Mansion CHS Ltd. (ITA No.1474/Mum/2012) decided identical issue in favour of the assessee by holding that the deduction in respect of income cooperative society by way of interest from its investment with other co-operative society, the assessee is entitle to deduction in respect of interest received/derived by it on deposit with cooperative bank. It is further noted that in the aforesaid decision, the Bench duly considered the decision in Totagar Cooperative Sale Society Ltd. 322 ITR 283 (Supreme Court), Mittal Court Premises Cooperative Society Ltd. vs Income Tax Officer 320 ITR 414 and CIT vs Kangra Cooperative Bank Ltd. 309 ITR 106. Identical ratio was laid down by the Mumbai Bench in Sea Grean Co-operative Hsg. Society vs Income Tax Officer (ITA No.1343/Mum/2017) order dated 31/03/2017. Following the aforesaid decisions and keeping in view, the principle of consistency, the appeal of the assessee is allowed.*

*Finally, the appeal of the assessee is allowed.*



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8. Taking into account of all the facts and circumstances, we find that this issue has been duly covered by the decision of the Hon'ble ITAT in assessee's own case (supra), therefore, we are of the view that the finding of the CIT(A) is quite correct which is not liable to be interfered with at this appellate stage. Accordingly, we upheld the finding of the CIT(A) on these issues and decide these issues in favour of the assessee against the revenue.

9. In the result, the appeal filed by the revenue is hereby ordered to be dismissed.

Order pronounced in the open court on 27/01/2021

Sd/-  
(RAJESH KUMAR)  
**ACCOUNTANT MEMBER**  
मुंबई Mumbai; दिनांक Dated : 27/01/2021  
Thirumalesh, Sr.PS.

Sd/-  
(AMARJIT SINGH)  
**JUDICIAL MEMBER**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**