

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B' CHANDIGARH**

**BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No. 275/CHD/2025

निर्धारण वर्ष / Assessment Year: 2022-23

The Malan Co-operative Agricultural Service Society, Malan, Nagrota Bagwan, Kangra (H.P.).	Vs	The ITO, Ward, Dharamshala.
स्थायी लेखा सं. /PAN NO: AACAT7701N		
अपीलार्थी/Appellant		प्रत्यार्थी/Respondent

Assessee by : Shri Rakesh Malhotra, CA and
Shri Vardaan Malhotra, Advocate

Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr.DR

Date of Hearing : 22.12.2025

Date of Pronouncement : 23.12.2025

PHYSICAL HEARING

ORDER

PER LALIET KUMAR, JM

This is the appeal filed by the assessee feeling aggrieved by the order passed by the ld. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 06.01.2025 passed for assessment year 2022-23 on the following grounds :

1. *Misplaced Reliance on Totgars' Case: The Ld. CIT(A) erred in relying solely on the Hon'ble Supreme Court's decision in The Totgars' Cooperative Sale Society Limited Vs. Income Tax Officer. Karnataka [MANU/SC/0095/2010]. The Ld. CIT(A) failed to appreciate that the Totgars' (Supra) judgment was specific to its facts and does not provide for a blanket application of its findings to all cooperative societies. The facts of the Appellant's case are materially different from those of the assessee in Totgars', particularly regarding the source and Utilization of funds. (Detailed Grounds of Appeal attached)*

2. *Incorrect Application of the Test of Operationally: The Ld. CIT(A) misapplied the 'Test of Operationally' as laid down in the Totgars' case. The Appellant Assessee's interest income in the present case is directly attributable to its operational activities of accepting member deposits and providing credit facilities and does not accrue from surplus funds unrelated to its business operations, as was the case in Totgars'. The investments in FDs are*

direct!) linked to the members' deposits and are essential for the Appellant's banking business. (Detailed Grounds of Appeal attached).

3. Ignorance of Jurisdictional High Court Rulings: The Ld. CIT(A) and Ld. AO failed to consider binding precedents from the Hon'ble High Court of Himachal Pradesh, specifically Commissioner of Income Tax, Shimla v. The Kangra Central Cooperative Bank Ltd., Dharamshala [MANU/HT/1456/2012], which supports the Appellant's position regarding the : deductibility of interest income earned on deposits made out of non SI.R funds. Similar rulings from other High Courts, as cited in the Written Submissions, further reinforce the Appellant's claim. (Detailed Grounds of Appeal attached)

4. Disregard for Auditor's Report: The Ld. AO disregarded the "Tax Auditor's Report in Form 3CB and Form 3CD, which clearly states the nature of the Appellant's business. This further demonstrates the arbitrary nature of the disallowance. (Detailed Grounds of Appeal attached).

5. Lack of Specific bindings: Neither the Ld. AO nor the Ld. CIT (Appeals) has provided any specific findings demonstrating how the Appellant fails to meet the requirements of Section 80P(2)(a)(i) of the Act, beyond the unsubstantiated claim of non compliance. The disallowance is based on mere assumptions and a misinterpretation of the law. (Detailed Ground of Appeal attached.)

6. Non-Adherence to Principles of Natural Justice: The Ld. AO's actions, particularly the disallowance based on alleged noncompliance despite the availability of information, coupled with the Ld. CIT (Appeals)'s misapplication of Tolgarh (Supra), has resulted in a denial of principles of natural justice to the Appellant. (Detailed Grounds of Appeal attached)

7. Erroneous Disallowance of Deduction under Section 80P(2)(a)(i): The Ld. AO has grossly erred in disallowing the Deduction claimed under Section 80P(2)(a)(i) of the Act, amounting to Rs, 37,47,927/-, without any valid justification or application of mind. The disallowance is based on the incorrect assumption of non-compliance by the Appellant Assessed despite the availability of all relevant information with the Income Tax Department, (Detailed Grounds of Appeal attached)

8. Non-Consideration of Relevant Documents: The Ld. AO failed to consider crucial documents, including the Appellant's Bye-Laws, Registration Certificate, Form 26AS, Balance Sheet, Trading, Profit & Loss Account, Annexures, Computation Statement, In\ Audit Report, and Detailed Income Tax Return, all of which were either submitted during Assessment Proceedings or uploaded on the Income Tax Portal annexed herewith as Annexure - 5. This demonstrates a clear non-application of mind and a pre-disposition to disallow the valid Deduction. (Detailed Grounds of Appeal attached)

2. Briefly the facts of the case are that the assessee is a co-operative agricultural service society registered on 27.09.1957. The objects of the society, as per its bye-laws, include encouraging thrift and saving among its members by accepting deposits and providing short- and medium-term credit for agricultural production. The assessee filed its return of income on 05.10.2022 declaring Nil income after claiming deduction of Rs. 37,47,927/-

under Section 80P. The case was selected for complete scrutiny under CASS. During assessment proceedings, the Assessing Officer (AO) observed that while the assessee furnished its registration certificate and Form 26AS, it allegedly failed to furnish its bye-laws and member details. On this basis, the AO disallowed the entire deduction under Section 80P, stating that the assessee was unable to justify the claim.

3. Aggrieved the assessee filed further appeal before the Id. CIT (Appeals) but the appeal to the Id. CIT (Appeals) did not bring any relief to the assessee. The Ld. CIT(A) concluded that the assessee was not entitled to the benefit because it failed to establish that the interest income was operational. The Ld. CIT(A) placed heavy reliance on the judgment of the Hon'ble Supreme Court in *Totgars' Co-operative Sale Society Ltd. vs. ITO* and concluded that interest income earned from funds not immediately required for business is taxable under Section 56. The lower authorities have mentioned the income earned by the assessee from various sources / activities which is summarized as under:

S. No.	Nature of Income	Source / Activity	Amount (Rs.)	Head of Income
1.	Interest on loans to members	Credit facilities to members	19,27,995	Business Income
2.	Interest on bank FDRs	Temporary parking of member funds	1,50,19,858	Business Income
3.	Interest on Savings A/c	Business bank accounts	23,839	Business Income
4.	Trading Profit	Sale of seeds, fertilizers, etc.	As per P&L	Business Income
Total	Net Profit Claimed		Rs.37,47,927	

4. Feeling aggrieved by the order passed by the Ld. CIT(A), the assessee is in further appeal before this Tribunal.

5. The Id. AR for the assessee had made the following submission that the assessee is primarily doing the activities which fall within clause 80P(2)(a) of the Act as the assessee is involved in providing the credit facilities to its members and therefore, the income accrued to the assessee on account of

the activities which are attributable to the credit facilities are exempt and are not taxable in the eyes of law. It was further submitted that the assessee, on account of its objective, is encouraging the saving tendency of its members. On account of that, the assessee had huge deposits which are deposited in the bank. The Id. AR had drawn our attention to page 74 of the Paper Book wherein the FDR deposit and pre-deposit RD deposit cumulatively amount to Rs.18.22 Cr. Further, it was submitted that the bank loan provided by the assessee to its members is for an amount of Rs .1,47,43,671/- . The assessee is earning the interest on account of the loan given by it to its members and also earning the interest free deposits made in the bank. It was submitted that besides the above, the assessee is also carrying out the other activities for the benefit of its members and therefore, the income of the assessee is required to be exempted. It was further submitted that the AO failed to apply his mind to the fact that member deposits (Rs.18.22 Crores) were the primary source of investment, rendering the interest earned "attributable to" the banking business. It was contended that reliance on *Totgars'* is misplaced as that case dealt with surplus funds from marketing activities. In contrast, the assessee's funds are inextricably linked to its credit facility operations.

6. Per contra, the Id. DR had drawn our attention to the order of the Id.CIT (Appeals) and more particularly paragraph 4(a) which is to the following effect :

4(a).I have considered the assessee's grounds. I have also considered the facts & circumstances of the case. From the verification of the assessee's submissions and financials of the society, it is noticed that the assessee is predominantly involved in doing services such as sale of cattle feed, fertilizers, seeds etc. which are relatable to agricultural operations. The assessee has also derived interest income from advance of loans to its members which amounts to Rs. 15,79,959/- . However, the assessee received interest on funds kept in scheduled banks in the form of FDRs etc amounting to Rs. 1,50,19,858/- . These FDRs were mainly kept with Punjab NationalBank, State Bank of India, Pathiar Bank Ltd etc. totally amounting to about Rs. 17 Crores. Thus, out of the assessee's total of balance sheet, 80 % of the investments are mainly kept as FDs in other scheduled banks. However, advances and loans given to its members amounts to only about Rs. 2 Crores. Thus, the assessee's financials shows that the predominant activity of the assessee is not giving credit facilities to its members but providing various services which are related to agricultural operations. Thus, the assessee's income from interest received from FDs is not eligible for deduction u/s. 80P of the IT Act. It is pertinent

to mention here the judgement of hon'ble Apex Court in the case of *Totgars Cooperative Sale Society Vs. ITO* (322 ITR 283) which held as under:-

To say that the source of income is not relevant for deciding the applicability of section 80P would not be correct because one needs to give weightage to the words 'the whole of the amount of profits and gains of business' attributable to one of the activities specified in section 80P(2)(a). The word 'the whole of the amount of profits and gains of business' emphasise that the income, in respect of which deduction is sought must constitute the operational income and not the other income which accrues to the society. In the instant case, the evidence showed that the assessee society earned interest on funds which were not required for business purposes at the given point of time. Therefore, on the facts and circumstances of the instant case, such interest income fell in the category of 'other income' which had rightly been taxed by the department under section 56.

As held by the hon'ble Apex Court, the interest income earned by the assessee clearly partakes the character of income from other sources, therefore, the same is liable for taxation. Accordingly, the grounds raised by the appellant is hereby dismissed.

In the result, the assessee's appeal is hereby dismissed.

7. The Id. DR had submitted that the undisputed income earned by the assessee, as mentioned in the financial statements of the assessee, is the income from the FDR deposited in a scheduled bank amounting to Rs.1,50,19,872/-.

8. The Id. DR had submitted that the activity of the assessee is not to provide the credit facilities but was to make investments in nationalised banks like Punjab National Bank, State Bank, etc. and earn the interest on the said FDR. It was submitted that what is provided under Section 80P(2)(a) is that the whole income attributable to the credit facility by the assessee is exempted. It was submitted that the revenue earned from the FDR in the form of interest cannot be said to be relatable or attributable to the credit facility of the assessee and therefore, it is not exempt.

9. In rebuttal, Id. AR had submitted that in identical facts, the Pune Tribunal in the case of *Pune Madhyamik Shikshak Sahkari* (ITA No.909/PUN/2025) had the occasion to look into this fact and the Tribunal has allowed the appeal of the assessee. The Id. AR had drawn our attention to

the finding recorded by the Co-ordinate Bench in paragraph 12-13 which is to the following effect :

12. Further, the Coordinate Bench of the Tribunal in the case of *Talegaon Nagari SahakariPatsanstha Limited vs. ITO (supra)* has held that the interest income earned by a co-operative society on deposits made out of surplus funds with co-operative banks as well as scheduled banks qualify for deduction both under the provisions of section 80P(2)(a)(i) and 80P(2)(d) of the Act. Since the Assessing Officer in the instant case after considering the reply of the assessee has taken a plausible view, therefore, the same in our opinion cannot be considered as erroneous although it may be prejudicial to the interest of the Revenue.

13. It is the settled proposition of law that for assuming the jurisdiction u/s 263 of the Act, the twin conditions i.e. (i) the order of the Assessing Officer is erroneous and (ii) the order is prejudicial to the interest of revenue must be fulfilled. In the instant case the order passed by the Assessing Officer may be prejudicial to the interest of revenue but it cannot be said to be erroneous since the Assessing Officer has taken a plausible view on this issue after calling for various details from the assessee to which the assessee has replied. Therefore, in absence of fulfillment of the twin conditions, the Ld. PCIT in our opinion is not justified in assuming the jurisdiction u/s 263 of the Act. We, therefore, set aside the order passed by the Ld. PCIT. The grounds raised by the assessee are accordingly allowed."

10. The Ld. AR further submitted that once the Co-ordinate Bench of the Tribunal in identical facts has decided the issue in favour of the assessee, the present appeal of the assessee must be required to be allowed.

11. We have heard the rival contentions and gone through the record. Section 80(P)(1), 80P(2) provides as under :

"80P. (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)in the case of a co-operative society engaged in-(i)carrying on the business of banking or providing credit facilities to its members, or

(ii)a cottage industry, or]

(iii)[the marketing of the agricultural produce of its members, or]

(iv)[the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

(v) the processing, without the aid of power, of the agricultural produce of its members, or

(vi) the collective disposal of the labour of its members, or

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, the whole of the amount of profits and gains of business attributable to any one or more of such activities"

12. From the reading of Section 80P(2)(a), it is abundantly clear that Section 80P(2)(a) has been constructed in two parts :

- i) That the Co-operative Society is carrying out the business of banking;
- ii) The Co-operative Society is providing credit facilities to its members.

13. In our considered opinion, if a co-operative society carries on the business of banking, it must adhere to the guidelines issued by the Reserve Bank of India (RBI) regarding banking facilities. The RBI stipulates that any entity including a co-operative society that carries on the business of banking must obtain a banking license to conduct such activities.

14. At the bar, the learned AR for the assessee categorically mentioned that the assessee is not carrying out the business of banking; therefore, the first limb of Section 80P(2)(a) is not applicable. However, as noted above, the learned AR contends that the co-operative society (the assessee) provides credit facilities to its members. It was submitted that providing credit facilities inherently includes accepting deposits from members; thus, once the assessee society offers such a facility, the nature of that activity necessarily involves accepting member deposits.

15. It was further submitted that the interest earned by the Service Fund—received by the assessee from its members and subsequently deposited with nationalised or scheduled banks is directly attributable to the assessee's

activities. Therefore, it was argued that such profits and gains from that business should be excluded when computing the assessee's income.

16. On the face of it, the assessee's argument appears very attractive and forceful. However, upon examining the word "attributable" in relation to the activities mentioned in the provision, we conclude that the argument has no legs to stand on. In our considered opinion, the term "attributable" only applies when there is a first-degree nexus with the assessee's activities. Admittedly, even assuming the assessee's activities involve accepting and granting loans, the question remains whether interest earned on deposited funds in a nationalised bank qualifies as a first-degree nexus. The answer is negative, as the income earned by the assessee lacks a direct, close, and proximate nexus with its core activities.

17. Furthermore, another compelling reason to conclude against the assessee is the composition of its total income. The record reveals that the interest income earned by the assessee stands at Rs. 1,50,19,858/-, whereas the income from other heads is significantly lower, as evidenced by the table reproduced hereinabove. While the assessee's by-laws permit the provision of credit facilities to its members, the financial data demonstrates that the revenue generated from such activities was a mere Rs. 19,27,995/-. This figure lacks substantive significance when juxtaposed against the substantial interest income derived from Fixed Deposits (FDRs).

18. In the context of tax jurisprudence, the entitlement to deduction under Section 80P(2)(a)(i) of the Income Tax Act is contingent upon the principal nature of the business conducted by the assessee. In the present case, it is evident that ancillary investment income has substantially surpassed the income from the core activity of providing credit facilities. To employ a legal metaphor, the investment income (the "mustache") has eclipsed the actual credit business (the "beard"), thereby altering the fundamental character of

the entity from a primary credit society to an investment-oriented society for the purposes of the Act.

19. The assessee has invoked the phrase "attributable to" as used in Section 80P, contending that it encompasses a broader scope than the term "derived from." While it is settled law that "attributable to" is a term of wider import, its application is not unlimited; it necessitates a direct and functional nexus between the income in question and the specific business activity prescribed by the statute. For interest income to qualify as "attributable" to the business of providing credit facilities, the assessee must establish that the funds were deposited in banks either for "Temporarily for operational liquidity" or for "Out of a statutory business requirement". In the case at hand, none of these situations is applicable. In our considered opinion, where the placement of funds in FDRs constitutes the primary source of revenue, such income should appropriately be characterised as arising from an independent investment activity rather than being incidental to the credit business. The term "attributable" cannot be so expansively construed as to reclassify commercial investments in scheduled banks as mutual credit activities.

20. Lastly, the precedents cited by the assessee, which permitted deductions on interest income, were decided in factual contexts where the credit activity remained the dominant business and the interest income was merely incidental. The present case fails the "predominant activity" test. Accordingly, the benefit of "attributable" income cannot be extended. A society cannot be recognized as a credit society in law when, in substance, it operates primarily as an investment vehicle.

21. In light of the foregoing analysis, the Tribunal concludes that the assessee does not fulfil the essential conditions of Section 80P(2)(a)(i). The principal conduct of the assessee during the relevant year was the generation of interest income through fixed deposits, rather than the provision of credit facilities to its members.

22. Consequently, the appeal of the assessee is dismissed.

23. In the result, the appeal of the assessee is dismissed.

Order pronounced on 23/12/2025.

Sd/-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चंडीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar