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**Recent Income tax & GST Developments
Impacting various Co-operative Entities**

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MODULES COVERED

- 01 Cooperative Societies — Concepts
- 02 Doctrine of Mutuality
- 03 Statutory Benefits u/s 80P
- 04 Historical Evolution (1922–2025)
- 05 Practical Challenges
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Types, characteristics, legal framework



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Doctrine of Mutuality

Origin, three requirements, cooperative intersection



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1922 Act to Finance Act 2023 journey



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MODULE 01

Cooperative Societies Conceptual Foundation

Types, characteristics, and their relevance to income tax provisions in India.








What is a Cooperative Society?

Definition, characteristics, and legal framework

DEFINITION

A voluntary association of persons formed to promote the economic interests of its members on the basis of mutual aid, self-help, and democratic control. Registered under the Cooperative Societies Act, 1912, respective State Acts, or the MSCS Act, 2002.

KEY CHARACTERISTICS

-  Membership open and voluntary
-  Democratic control — one member, one vote
-  Surplus distributed proportionate to member dealings
-  Service to members is primary; profit is secondary
-  Governed by bye-laws and applicable Cooperative Act



Types of Cooperative Societies

Classification relevant to income tax provisions

Type of Society	Nature of Activity	Primary Tax Provision
Agricultural / Farmers' Co-op	Procurement and processing of agricultural produce	Sec. 80P(2)(a)(i),(ii),(iii),(iv)
Cooperative Credit Society	Lending and deposit among members exclusively	Sec. 80P(2)(a)(i) — interest income
Urban Cooperative Bank (UCB)	Banking operations — licensed under BR Act 1949	Sec. 80P(4) — EXCLUDED from 80P
Housing Cooperative	Allotment / construction of housing for members	Sec. 80P(2)(c)
Consumer Cooperative	Selling goods to members at reasonable prices	Sec. 80P(2)(a)(vi)
Dairy / Milk Cooperative	Processing and marketing milk / milk products	Sec. 80P(2)(f) — full deduction
Labour Contract Cooperative	Collective disposal of labour of members	Sec. 80P(2)(a)(ii)
Multi-State Cooperative (MSCS)	Cross-state operations under MSCS Act 2002	Sec. 80P — benefit available

⚠ Producer Companies (Companies Act 2013) & entities NOT registered under Cooperative Acts do NOT qualify for Section 80P benefits.

MODULE 02

Doctrine of Mutuality

The foundational jurisprudential doctrine — its origin, three requirements, and applicability to cooperative society taxation.



Doctrine of Mutuality — Origin & Meaning

The principle that a person cannot make a taxable profit from themselves



"A fund is mutual when contributors and participators are identical — no outsider can benefit, and surplus is merely the return of contributors' own money. There is no element of profit capable of being taxed."

1

Identity Test

Complete identity between the class of contributors (who put in) and the class of participators (who share surplus). If outsiders participate — mutuality breaks.

2

No Profit Test

No member can receive back more than contributed. Distribution must be proportionate to dealings — no surplus constitutes 'profit' for tax purposes.

3

Closed Fund Test

Fund is centrally managed. No outsider derives any benefit. All dealings are exclusively among and for the same class of members.

Mutuality & Cooperative Societies

When the doctrine applies — and when it breaks down

✓ WHEN MUTUALITY APPLIES

- Cooperative dealing exclusively with members
- PACS lending only to farmer-members
- Housing cooperative — services to member residents
- Labour cooperative — work for members only
- Consumer cooperative selling only to members

✗ WHEN MUTUALITY BREAKS

- Accepting deposits from non-members / general public
- Cooperative bank licensed under Banking Regulation Act
- Investment of surplus in commercial bank FDs
- Dealings mandated with non-members by statute
- Income from government securities / bonds



WHY THE LEGISLATURE ENACTED SECTION 80P

Because mutuality was not a complete shield — especially for cooperatives dealing with the public, investing surplus funds, or operating as quasi-banks — Parliament enacted Section 80P to provide targeted statutory deductions independent of the mutuality doctrine.

Doctrine of Mutuality — Landmark Cases

Supreme Court decisions establishing the Indian mutuality framework

CIT v. Royal Western India Turf Club Ltd.

Supreme Court | (1954) 26 ITR 211 SC

Laid the Indian foundation for mutuality. Three conditions stated: (i) identity of contributors and participators, (ii) no member gets back more than contributed, (iii) no outsider benefits. Subscription income from members is not taxable.

Bankipur Club Ltd. v. CIT

Supreme Court | (1997) 226 ITR 97 SC

Restricted mutuality: facilities extended to non-members (guests) break the identity test. Proportionate treatment introduced — only member-activity portion is protected by the mutuality doctrine.

CIT v. Totgars' Cooperative Sale Society Ltd.

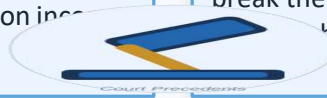
Supreme Court | (2010) 322 ITR 283 SC

Interest on bank FDs from surplus funds = IFOS, not business income — NOT eligible for Sec. 80P. A binding adverse precedent consistently applied by ITAT Pune. Cooperatives must plan investments carefully.

Bangalore Club v. CIT

Supreme Court | (2013) 350 ITR 509 SC

Even in clubs, investment outside the mutual group (FDs with banks) breaks mutuality — interest therefrom is taxable. Reaffirmed Totgars' and narrowed the scope of the doctrine.



MODULE 03

Specific Benefits Under ITA 1961

Section 80P — the cornerstone deduction provision for cooperative societies — detailed analysis of all sub-clauses and critical exclusions.



Section 80P — Overview of All Deductions

100% deduction of profits and gains from specified cooperative activities

Section	Nature of Benefit	Applicable To
80P(2)(a)	100% deduction — banking/credit to members, labour, fishing, agricultural activities, cottage industries	Cooperative societies with specified activities
80P(2)(b)	100% deduction — profits from cottage industries	Cottage industry cooperatives
80P(2)(c)	Rs. 100 / Rs. 50 deduction from certain incomes	Housing / other cooperatives — symbolic limit
80P(2)(d)	100% deduction — interest / dividend from investments in other cooperative societies	Apex bodies, PACS investing in state co-op banks
80P(2)(e)	Deduction — income from letting of godowns / warehouses	Agricultural cooperatives — storage function
80P(2)(f)	100% deduction — income from marketing milk / milk products	Milk cooperative federations (e.g., Amul-type)
80P(4)	EXCLUSION: Section 80P does NOT apply to cooperative banks (other than PACS and PCARDBT) — w.e.f. AY 2007-08	UCBs, DCCBs, State Co-op Banks — EXCLUDED



Sec. 80AC: Deduction under Sec. 80P is DENIED if the return of income is not filed on or before the due date under Sec. 139(1).

Section 80P(2)(a) — Specified Activities

Core deduction clause — 100% of profits from qualifying activities

(i)	Banking or credit facilities to members	Cooperative credit societies, PACS — member lending. Cooperative banks excluded by Sec. 80P(4).
(ii)	Collective disposal of labour of members	Labour contract cooperatives — income from collective work of members.
(iii)	Fishing / allied activities	Fishing cooperative societies and activities allied to fishing for members.
(iv)	Agri implements, seeds, livestock for members; processing without power	Farmer service cooperatives; primary processing included.
(v)	Processing, preservation, marketing of agri produce of members	Marketing cooperatives — full processing chain for members.
(vi)	Purchase of goods for supply to members (other than (iv)/(v))	Consumer cooperatives — supply of goods exclusively to members.
(vii)	Cottage industries	Any activity in the nature of cottage industries for members.

Section 80P(4) — The Critical Exclusion

Finance Act 2006: Cooperative banks lose Sec. 80P benefit w.e.f. AY 2007-08



SECTION 80P(4) — Text of the Provision:

The provisions of this section shall not apply in relation to any cooperative bank other than a Primary Agricultural Credit Society (PACS) or a Primary Cooperative Agriculture and Rural Development Bank (PCARDBT).

EXCLUDED — Sec. 80P(4) Applies

- Urban Cooperative Banks (UCBs) — licensed under BR Act
- District Central Cooperative Banks (DCCBs)
- State Cooperative Banks
- Multi-State Cooperative Banks (BR Act licensed)
- Test: Licensed under Banking Regulation Act, 1949?

PROTECTED — Sec. 80P Available

- Primary Agricultural Credit Societies (PACS)
- Primary Cooperative Agriculture & Rural Dev. Banks
- Cooperative Credit Societies (not BR Act licensed)
- All non-banking cooperative societies
- Mavilayi SC 2021 — BR Act licence is decisive test

THE MAVILAYI TEST

- Is the entity licensed under the Banking Regulation Act, 1949?
- YES → 'cooperative bank' → Sec. 80P(4) applies → deduction denied
- NO → NOT a 'cooperative bank' → Sec. 80P fully available
- Name means nothing — the BR Act licence is the ONLY test
- SC 2021 — confirmed by Telangana, Bombay, Kerala HCs

Section 194A — TDS on Interest & Section 40(a)(ia)

TDS obligations and the disallowance risk for cooperative societies

✓ Sec. 194A(3)(v) — Exemption

- Primary cooperative societies paying interest to members: NO TDS obligation
- Exemption protects pure member-to-member credit cooperative transactions
- Condition: must be a primary cooperative society — NOT a licensed bank
- Non-member interest payments: TDS applicable even for credit societies

✗ Cooperative Banks — TDS Required

- UCBs and cooperative banks licensed under BR Act: TDS fully applicable
- Finance Act 2020: Threshold Rs. 40,000 (Rs. 50,000 for senior citizens)
- Failure to deduct TDS: disallowance u/s 40(a)(ia) — interest payment disallowed
- Applicable for cooperative banks since AY 2015-16 onwards



SECTION 40(a)(ia) — DISALLOWANCE FOR TDS DEFAULT

If a cooperative bank fails to deduct TDS on interest paid to depositors, 30% of such interest expenditure is DISALLOWED u/s 40(a)(ia). This creates double taxation — interest paid is not deductible as expense, while it remains income of the recipient. Compliance is non-negotiable for all cooperative banks post Finance Act 2006.

MODULE 04

Historical Evolution of Tax Benefits

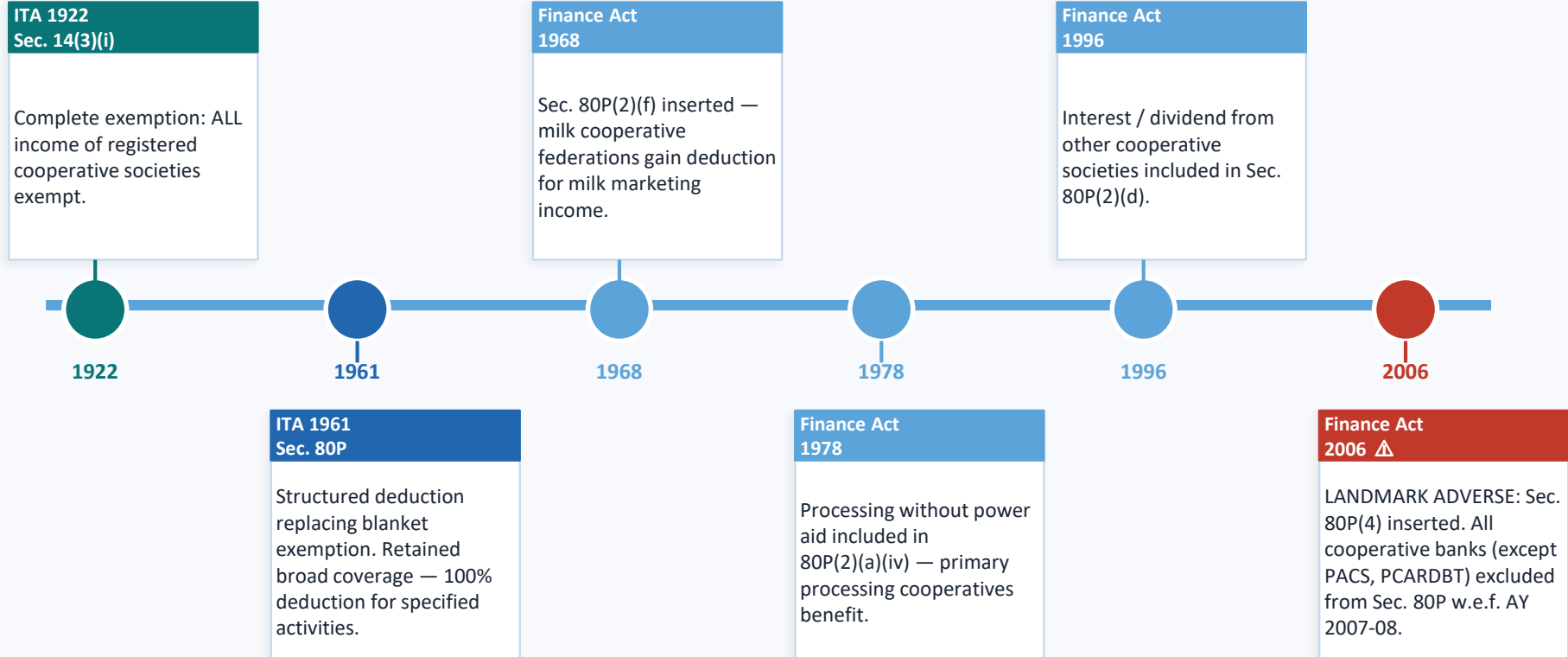
From the complete exemption under the 1922 Act to the restricted regime today — tracing every significant legislative change.



1922 Act → ITA 1961 → Finance Acts

Legislative Journey — 1922 to 2006

Evolution of cooperative society tax benefits in India



Legislative Journey — 2014 to 2025

Recent amendments reshaping cooperative society taxation

Finance Act / Year	Key Change	Impact on Cooperatives
Finance Act 2014	Sec. 80AC extended to cover Sec. 80P — deduction denied for belated filers	Adverse — late filers lose 80P deduction entirely
Finance Act 2020	TDS threshold raised: Rs. 40,000 / Rs. 50,000 (senior citizens) for cooperative banks	Marginal relief; TDS compliance obligation continues
Finance Act 2020	Sec. 115BAD inserted — optional 22% concessional rate for cooperative societies	New option — but must surrender Sec. 80P deduction
Finance Act 2023	Sec. 115BAE — 15% rate for new manufacturing cooperatives	Manufacturing co-ops benefit; 80P not available in regime
Finance Act 2023	Surcharge reduced: 7% for cooperatives with income Rs. 1–10 cr (from 12%)	Tax rate reduction — parity with individuals
Finance Act 2023	AMT rate u/s 115JC reduced from 18.5% to 15% for cooperative societies	Relief from Alternate Minimum Tax
Finance Act 2023	Sec. 43B(h): MSME payment disallowance applicable to cooperatives	Sugar cooperatives / marketing federations must comply
Budget 2024	Sec. 155 amended — sugar cooperatives get relief for historic cane price deduction denials	Major relief for Maharashtra / Karnataka sugar cooperatives
ITA 2025	Consolidation / re-numbering — no substantive changes to cooperative taxation	Sec. 80P equivalent retained; monitor re-numbering

MODULE 05

Practical Challenges in Claiming Benefits

The battleground issues — Sec. 80P(4) scope, income characterisation, TDS obligations, belated returns, and non-member income attribution.



Challenge 1 — Who is a 'Cooperative Bank' u/s 80P(4)?

The most heavily litigated issue in cooperative society taxation today

THE MAVILAYI TEST (Supreme Court 2021) — The Bright-Line Rule

COOPERATIVE BANK — Sec. 80P(4) Applies

- Licensed under Banking Regulation Act, 1949
- Accepts deposits from and lends to general public
- Subject to RBI regulation and supervision
- Uses 'bank' name AND carries on banking business
- Examples: UCBS, DCCBs, State Co-operative Banks

COOPERATIVE CREDIT SOCIETY — Sec. 80P Available

- NOT licensed under Banking Regulation Act, 1949
- Provides credit exclusively to its own members
- NOT subject to RBI as a bank — no BR Act license
- May use 'bank' in name — but not a bank in law
- Examples: Employees' credit societies, PACS, teachers' societies

KEY RULE: *The BR Act licence is the ONLY decisive criterion — not the name, not the nature of membership, not the word 'bank' in the title.*

Challenge 2 — Business Income vs. Income from Other Sources

The Totgars' problem — characterisation of interest income



TOTGARS' RULE (SC 2010): Interest on bank FDs / Govt. Securities from surplus funds = Income from Other Sources — NOT eligible for Sec. 80P.

Type of Interest Income	Head of Income	Sec. 80P Available?
Interest on loans/advances to members	Business Income — u/s 28	✓ YES — Sec. 80P(2)(a)(i)
Interest on FDs with commercial banks from surplus	Income from Other Sources — u/s 56	✗ NO — Totgars' SC 2010
Interest on government securities — voluntary purchase	Income from Other Sources — u/s 56	✗ NO
Interest on mandatory SLR/CRR investments (co-op banks)	Business Income — incidental to banking	✓ YES — Karnataka Apex Bank HC 2001
Interest from deposits with other cooperative societies	Sec. 80P(2)(d) — specific deduction	✓ YES — statutory provision
Dividend from shares of other cooperative societies	Sec. 80P(2)(d) — specific deduction	✓ YES — statutory provision



Practical Tip: Invest surplus in other cooperative societies (Sec. 80P(2)(d)) rather than commercial bank FDs — keeps income within the deduction umbrella.

Challenge 3 — Section 80AC: Belated Returns & Loss of Sec. 80P

An absolute bar — no judicial discretion, no exception



SECTION 80AC (w.e.f. AY 2018-19): Deduction under Chapter VI-A (including Sec. 80P) shall NOT be allowed unless the return of income is furnished on or before the due date specified under Section 139(1).

WHY COOPERATIVES ARE VULNERABLE

- Small PACS and milk cooperatives have limited professional accounting support
- Annual general meetings delayed — accounts finalised late in year
- Due date: 31st July (non-audit); 31st October (audit) — often missed
- CIT(A) and ITAT consistently deny Sec. 80P on belated filing

PRACTICAL SOLUTIONS

- Engage a CA early — do not wait for AGM to finalise accounts
- File a protective return before due date; revise later if needed
- Ensure tax audit u/s 44AB completed on time
- If unavoidable delay: file condonation petition to CBDT/PCIT u/s 119(2)(b)



JUDICIAL POSITION: Sec. 80AC is an absolute bar — courts and ITAT have unanimously held there is no judicial discretion to condone late filing for Sec. 80P purposes. CBDT has Sec. 119(2)(b) power but rarely exercises it. Timely filing is the single most critical compliance action.

Challenges 4 & 5 — Defective Returns & Non-Member Income

Section 139(9) issues and attribution of non-member transactions

CHALLENGE 4: Sec. 139(9) Defective Return

- CPC / AO treats return as defective where gross total income < deductions claimed
- CORRECT POSITION: If entire gross income is from cooperative activities and 80P deduction equals GTI — return is NOT defective
- ITAT has held: nil net income after 80P is a valid outcome — not defective
- If notice u/s 139(9) received: respond within 15 days with explanation
- Failure to respond = invalid return — file afresh if due date permits

CHALLENGE 5: Non-Member Income Attribution

- Cooperative income from non-members is taxable — no mutuality, no 80P
- AOs compute non-member income without proportionate expense deduction — inflated assessment
- Correct approach: expenses must be apportioned between member and non-member activities
- Credit society accepting non-member deposits: interest thereon is taxable income
- Maintain separate ledgers for member vs. non-member transactions

CHALLENGE 6: Multi-State Cooperative Societies (MSCS)

MSCS registered under the MSCS Act, 2002 (central legislation) — some AOs question whether this qualifies as 'cooperative society' under Sec. 2(19), which refers to State laws. ITAT and High Courts have consistently held MSCS Act registration is sufficient — the definition is not confined to State Acts alone.

MODULE 06

Landmark Judgements

Supreme Court and High Court decisions that have shaped the law — ratio, implications, and current applicability.



Supreme Court — Foundational Decisions

Cases establishing mutuality doctrine and Section 80P framework

CIT v. Royal Western India Turf Club Ltd.

Supreme Court | (1954) 26 ITR 211 SC

Three requirements of mutuality stated. Subscription from members not taxable. The foundational Indian precedent for all club and cooperative mutuality claims.

ACIT v. Surat District Cooperative Milk Producers' Union

Supreme Court | (1999) 238 ITR 581 SC

Milk marketing cooperative entitled to full Sec. 80P(2)(f) deduction. Scope interpreted widely — ancillary activities directly connected to milk marketing also qualify.

CIT v. Totgars' Cooperative Sale Society Ltd.

Supreme Court | (2010) 322 ITR 283 SC

Interest on bank FDs from surplus funds = IFOS — NOT eligible for Sec. 80P. Binding adverse precedent consistently applied by ITAT Pune. Cooperatives must plan investments carefully.

Bangalore Club v. CIT

Supreme Court | (2013) 350 ITR 509 SC

Investments outside the mutual group break mutuality. Interest on FDs with commercial banks is taxable. Reaffirmed Totgars' — narrowed scope of the doctrine.

Supreme Court — The Mavilayi Revolution (2021)

The most significant recent decision on Section 80P(4)

Mavilayi Service Cooperative Bank Ltd. v. CIT

Supreme Court of India | (2021) 431 ITR 1 SC | 3-Judge Bench

RATIO: A cooperative society which is NOT licensed as a bank under the Banking Regulation Act, 1949 does NOT qualify as a 'cooperative bank' for Sec. 80P(4) and CANNOT be denied the Sec. 80P deduction. The word 'bank' in the name is irrelevant. The BR Act licence is the decisive and only test.

IMPLICATIONS FOR PRACTITIONERS

- All cooperative credit societies providing credit to members — entitled to 80P(2)(a)(i) deduction regardless of name
- AOs cannot invoke Sec. 80P(4) merely because the word 'bank' appears in the entity's name
- Post-Mavilayi: assessments rectified in favour of thousands of cooperative credit societies across India
- Multi-State cooperative credit societies also protected — BR Act license test applies uniformly

Supreme Court — Additional Decisions

Other significant SC rulings on cooperative society taxation

Bankipur Club Ltd. v. CIT

Supreme Court | (1997) 226 ITR 97 SC

Non-member facilities break the identity test — proportionate treatment applies. Only member-activity income is protected. First major restriction on mutuality doctrine in India.

Kerala State SARDBT v. ACIT

Supreme Court | (2022) 447 ITR 239 SC

PCARDBT entities expressly excluded from Sec. 80P(4) restriction — they continue to enjoy Sec. 80P deduction. The carve-out in Sec. 80P(4) is clear and must be applied without qualification.

CIT v. Anjum M.H. Ghaswala

Supreme Court | (2001) 252 ITR 1 SC

Cooperative society is not merely a club — it has statutory obligations. Dealings with third parties are taxable regardless of membership size. Non-member income does not become mutual income.

National Cooperative Development Corporation v. CIT

Supreme Court | (1993) 201 ITR 844 SC

NCDC (apex financing body for cooperatives) — income from financing state cooperative institutions qualifies as business income. Important for apex-level cooperative finance taxation.

High Court Decisions — I

Bombay, Karnataka, and Gujarat High Courts

CIT v. Karnataka State Cooperative Apex Bank

Karnataka High Court | (2001) 251 ITR 194 Kar

Interest on mandatory SLR/CRR statutory investments is BUSINESS INCOME — incidental and integrally connected to banking business. Distinguished from voluntary FD investments.

CIT v. Sitaldas Premnath Cooperative Housing Society

Bombay High Court | (1982) 138 ITR 489 Bom

Housing cooperative surplus from maintaining common facilities for members — not taxable. Mutuality extends to maintenance activities of housing cooperatives.

Nawanagar Cooperative Bank Ltd. v. CIT

Gujarat High Court | (2013) 356 ITR 359 Guj

UCB licensed under BR Act is a 'cooperative bank' — Sec. 80P(4) applies and deduction is denied. BR Act license is the decisive test. Adverse for all licensed UCBs.

Janaseva Cooperative Bank Ltd. v. ITO

Bombay High Court | (2018) ITA 1543/2016

Cooperative bank licensed under BR Act falls under Sec. 80P(4). Full Sec. 80P deduction denied. TDS u/s 194A applicable. Disallowance u/s 40(a)(ia) for TDS default sustained.

High Court Decisions — II

Kerala, Telangana, and Bombay — post-Mavilayi alignment

The Chirakkal Service Cooperative Bank Ltd. v. CIT

Kerala High Court | (2016) 384 ITR 490 Ker

Pre-Mavilayi: cooperative society not licensed by RBI is entitled to Sec. 80P deduction irrespective of 'bank' in its name. Applied by ITAT Pune for Maharashtra entities.

CIT v. Annasaheb Patil Mathadi Kamgar Sahakari Patsanstha

Bombay High Court | 2012 — ITA Appeal

Credit society providing loans exclusively to members entitled to 80P(2)(a)(i) deduction. Sec. 80P(4) does not apply. Confirmed Mavilayi principle before SC ruling.

Principal CIT v. Kranthi Cooperative Credit Society

Telangana High Court | 2022

Post-Mavilayi: credit cooperative society not licensed under BR Act — Sec. 80P(4) inapplicable. Sec. 80P(2)(a)(i) deduction allowed in full. Mavilayi confirmed as controlling precedent.

CIT v. The Rajarambapu Sahakari Bank Ltd.

Bombay High Court | 2023 — ITA Appeal

UCB licensed under BR Act — Sec. 80P(4) confirmed. Interest on SLR investments treated as business income eligible for deduction. Refined Totgars' test for mandatory investments.

ITAT Pune & Mumbai — Key Decisions

Tribunal rulings of significance for Maharashtra practitioners

Case / Society	ITAT	Key Issue	Outcome
Primary Teachers Cooperative Credit Society v. ITO	Pune	Sec. 80P(4) — teachers' credit society a 'bank'?	ALLOWED — not a BR Act bank; Mavilayi applied
Kolhapur Urban Cooperative Bank v. ITO	Pune	Post-80P(4) deduction claim; FD interest classification	DENIED — UCB under 80P(4); FD interest = IFOS
Saraswat Cooperative Bank Ltd. v. ACIT	Mumbai	Multi-state cooperative bank — 80P(4) applicability	DENIED — licensed bank under BR Act; 80P(4) applies
Lokmangal Cooperative Bank v. ITO (TDS)	Pune	Sec. 194A TDS & Sec. 40(a)(ia) for UCB	Disallowance confirmed — TDS obligation of co-op bank
Shiraguppi Urban Cooperative Credit Society v. ITO	Pune	Sec. 80AC — belated return, 80P deduction	DENIED — Sec. 80AC bar is absolute; no exception
Maharashtra Rajya Sahakari Bank v. DCIT	Mumbai	SLR/CRR interest — business income or IFOS?	Business income — mandatory statutory investment; 80P allowed
Vasai Vikas Cooperative Bank Ltd.	Mumbai	Sec. 263 revision — 80P(4) overlooked by AO	Revision upheld — AO's failure to apply 80P(4) was error

Practice Note: ITAT Pune consistently applies Mavilayi for non-BR-Act licensed societies and Totgars' for surplus FD interest. These two rules govern most Pune-region cooperative matters.

MODULE 07

Recent Changes & Developments 2022–2026

Finance Acts 2023, Budget 2024, and the Income Tax Act 2025 — new rates, new obligations, and the future landscape.



1922 Act → ITA 1961 → Finance Acts

Finance Act 2023 — Key Changes for Cooperative Societies

Four significant amendments affecting tax rates and obligations

Sec. 115BAE — New 15% Rate

- New manufacturing cooperative societies: 15% base tax rate + 10% surcharge + 4% cess
- Eligible: set up after 1 Apr 2023, commence mfg before 31 Mar 2025
- Must not avail Sec. 80P or other specified exemptions
- Once opted — irrevocable surrender of conventional benefits

AMT Relief — Sec. 115JC

- Alternate Minimum Tax rate reduced from 18.5% to 15% for cooperative societies
- Applicable when regular tax liability < 15% of adjusted total income
- Relief for cooperatives with heavy exemptions and deductions
- Aligns with new manufacturing entity MAT rate reduction

Surcharge Reduction

- Cooperatives with total income Rs. 1 cr – Rs. 10 cr: surcharge reduced from 12% to 7%
- Brings parity with individuals in the same income bracket
- Cooperatives above Rs. 10 crore: 12% surcharge continues
- Effective from Assessment Year 2024-25 onwards

Sec. 43B(h) — MSME Dues

- Payments to MSME creditors must be made within MSME Act timelines
- Delay beyond specified period: deduction disallowed till actual payment date
- Sugar cooperatives dealing with farmer-MSME suppliers — high exposure
- Review all supplier contracts — identify MSME vs. non-MSME creditors

Budget 2024 & Income Tax Act 2025

Sugar cooperative relief and the ITA 2025 transition



BUDGET 2024 — SUGAR COOPERATIVE RELIEF (Sec. 155 Amendment)

Finance Act 2023 allows sugar cooperatives to claim deduction for cane price payments made to farmers for AYs prior to AY 2016-17, where such deductions were historically denied. Section 155 amended to enable rectification of past assessments. Significant relief for Maharashtra and Karnataka sugar cooperatives — file rectification applications within the prescribed timeline.

ITA 1961 Provision	ITA 2025 Equivalent	Status / Change
Sec. 80P — Deduction for cooperative societies	Sec. 158 / Chapter equivalent	No substantive change; Sec. 80P(4) restriction retained
Sec. 2(19) — Definition of cooperative society	Sec. 2 definition chapter	No change in definition
Sec. 194A — TDS on interest	Sec. 393 (estimated)	TDS thresholds and exemptions unchanged
Sec. 115BAD — Optional concessional regime	New Regime chapter	Retained; applicable to cooperative societies
Sec. 43B(h) — MSME dues disallowance	Sec. 43B equivalent	Retained in ITA 2025 — compliance continues

CRITICAL: ITA 2025 is a consolidation — section numbers are re-mapped but all established ITA 1961 precedents remain fully applicable. Practitioners must verify new section numbers.

MODULE 08

Compliance Checklist

A 10-point annual compliance framework for cooperative societies to safeguard tax benefits and avoid common pitfalls.



10-Point Checklist

10-Point Compliance Checklist

Every cooperative society should verify these annually

01 File return on or before due date u/s 139(1) — mandatory to preserve Sec. 80P deduction (Sec. 80AC).

03 Classify interest income: member-lending = business income; commercial bank FDs = IFOS (Totgars'). Claim 80P only on business income.

05 Verify registration: must be registered under Cooperative Societies Act or MSCS Act 2002. Confirm annually with Registrar.

07 Comply with Sec. 43B(h): Pay MSME creditors within MSMED Act timelines. Identify all MSME suppliers and review contracts.

09 Invest surplus in other cooperative societies (Sec. 80P(2)(d)) rather than commercial bank FDs to keep income within deduction.

02 Maintain books of account; get tax audit u/s 44AB if turnover exceeds Rs. 1 crore (Rs. 2 crore if digital).

04 Deduct TDS u/s 194A on interest paid to depositors — mandatory if entity is a cooperative bank licensed under BR Act.

06 Apply Mavilayi test: Is the entity licensed under Banking Regulation Act? YES = Sec. 80P(4) applies. NO = 80P available.

08 Evaluate Sec. 115BAD / 115BAE option: For manufacturing cooperatives — compare benefit of 15% rate vs. surrendering 80P.

10 Respond to Sec. 139(9) defect notice within 15 days. If Sec. 80P(4) challenged — cite Mavilayi (SC 2021) immediately.

MODULE 09

Quick Reference Summary

Issues vs. Current Legal Position — the practitioner's at-a-glance guide to cooperative society taxation.



Quick Reference — Issues vs. Legal Position (Part I)

Current law as of AY 2025-26

Issue	Current Legal Position	Key Authority
Mutuality — member transactions	Exempt — mutuality doctrine applies; no taxable income	Royal Western India Turf Club (SC 1954)
Non-member transactions	Taxable — proportionate income from non-members assessed	Bankipur Club (SC 1997)
Interest on bank FDs / Govt. securities (surplus)	IFOS — NOT eligible for Sec. 80P deduction	Totgars' Cooperative (SC 2010)
Interest on SLR/CRR mandatory investments	Business income — eligible for Sec. 80P deduction	Karnataka Apex Bank (Kar HC 2001)
Cooperative credit society — not BR Act licensed	Sec. 80P(4) NOT applicable — full 80P deduction available	Mavilayi Service Co-op Bank (SC 2021)
Urban Cooperative Bank — BR Act licensed	Sec. 80P(4) APPLIES — entire Sec. 80P deduction denied	Nawanagar Coop Bank (Guj HC 2013)
Primary Agricultural Credit Society (PACS)	Fully eligible for Sec. 80P — expressly excluded from 80P(4)	Statutory provision — Sec. 80P(4) text

Quick Reference — Issues vs. Legal Position (Part II)

Current law as of AY 2025-26 (continued)

Issue	Current Legal Position	Key Authority
Belated return — Sec. 80P deduction	DENIED — Sec. 80AC is an absolute bar; no judicial discretion	Multiple ITAT decisions; Sec. 80AC
Interest from other cooperative societies	Eligible for Sec. 80P(2)(d) deduction	Statutory provision — Sec. 80P(2)(d)
Milk cooperative federation — marketing income	100% deduction u/s 80P(2)(f) including ancillary activities	Surat Milk Union (SC 1999)
New manufacturing cooperative (Sec. 115BAE)	15% tax rate available; Sec. 80P NOT available under this regime	Finance Act 2023 — Sec. 115BAE
Multi-State Cooperative Society	Sec. 80P applies — qualifies as cooperative society u/s 2(19)	ITAT — consistent position
PCARDBT (Agriculture & Rural Dev. Bank)	Sec. 80P APPLIES — expressly excluded from Sec. 80P(4)	Kerala SARDBT v. ACIT (SC 2022)
Sec. 43B(h) — MSME payment disallowance	Applicable to cooperative societies — comply with MSMED timelines	Finance Act 2023 — Sec. 43B(h)
Sec. 139(9) defective return — nil income after 80P	Return is NOT defective — nil net income is a valid outcome	ITAT — multiple decisions

CONCLUSION

Key Takeaways for Practitioners



Taxation of cooperative societies is an interplay between the mutuality doctrine and Section 80P — both must be understood to advise effectively.



The journey from full exemption (1922) → Section 80P (1961) → exclusion of cooperative banks (2006) reflects the evolving legislative attitude toward cooperatives.



Mavilayi (SC 2021) is the most powerful tool available today — the BR Act licence is the only test for Sec. 80P(4). Use it aggressively for credit societies.



Totgars' (SC 2010) remains binding — surplus funds must be invested in other cooperative societies (Sec. 80P(2)(d)) rather than in commercial bank FDs.



Section 80AC is absolute — timely return filing is the single most important compliance action for preserving the Section 80P deduction.



Finance Act 2023 and ITA 2025 require annual evaluation of the conventional deduction route versus the new concessional rate regime for each cooperative client.

Thank You

TAXATION OF COOPERATIVE SOCIETIES IN INDIA

REFERENCES

- Income Tax Act, 1961 — as amended by Finance Act 2023
- Income Tax Act, 2025 — Consolidation (effective AY 2026-27)
- Mavilayi Service Cooperative Bank Ltd. v. CIT — (2021) 431 ITR 1 SC
- CIT v. Totgars' Cooperative Sale Society Ltd. — (2010) 322 ITR 283 SC
- CIT v. Royal Western India Turf Club Ltd. — (1954) 26 ITR 211 SC
- CBDT Circulars on cooperative banking entities and Sec. 80P