

The Citizen Co-operative Society Limited, through its Managing Director, Hyderabad v. Assistant Commissioner of Income Tax, Circle-9(1), Hyderabad

Civil Appeal No. 10245 of 2017

[2017] 9 SCR 361 | 2017-08-08

Whether this society was excluded by section 80P(4) as a co-operative bank and, if not, whether its actual member/nonmember business and mutuality findings nevertheless defeated deduction under section 80P(2)(a)(i).

80P | 2(19)

Two-judge bench | A. K. Sikri, J. | Ashok Bhushan, J.

Assessment years: 2009-10

Fact-specific section 80P denial; Mavilayi qualification

Citizen rejected the section 80P(4) bank exclusion but denied this appellant deduction on its particular nominal-member/nonmember activity and mutuality findings. Mavilayi later explained and distinguished that outcome: membership depends on the governing law, and non-member lending does not by itself defeat deduction for qualifying member-credit profits. Only the identified later passages are checked. No current-law or Income-tax Act, 2025 equivalence is certified.

[paragraphs 20-26 / PDF pages 32, 33, 34, 35, 36, 37, 38, 39, 40 / judicial text](#); [paragraphs 32-33; 45-47 / PDF pages 42, 43, 50, 51 / judicial text](#)

01 FACTS OF THE CASE

The appellant was established on 31 May 1997 as a mutually aided co-operative credit society registered under the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995. Its operations later extended to Maharashtra and Karnataka, and it obtained registration under the Multi-State Co-operative Societies Act, 2002 by certificate dated 26 July 2005. For AY 2009-10 it filed a nil return claiming a section 80P deduction of approximately Rs. 4.26 crore. The printed narrative and assessment table differ in the exact deduction figure, so this note does not choose one silently (paragraphs 5-6).

The Assessing Officer denied the deduction, treating the activity as banking for the public rather than members alone. The Commissioner (Appeals), Tribunal and Andhra Pradesh High Court upheld the denial. A separate section 68 addition was deleted by the Commissioner (Appeals) and had attained finality; it was not before the Supreme Court. Earlier Tribunal orders for other assessment years and their cash-deposit penalty discussion formed background only (paragraphs 6-8).

The assessee relied on its co-operative objects, lack of an RBI banking licence, the distinction between a credit society and a co-operative bank, and mutuality. Revenue relied on concurrent findings that the society dealt with an unrecognised nominal-member category and the general public, that depositors and borrowers were distinct, and that the requisite mutual identity was missing (paragraphs 9-16).

Source: [reported judgment / paragraphs 5-8 / PDF pages 7, 8, 9, 10 / judicial text](#); [reported judgment / paragraphs 15-16 / PDF pages 13, 14, 15 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 80P as a beneficial provision supporting the co-operative sector, to be read liberally and reasonably to effectuate its object. Section 80P(2)(a)(i) contains two limbs: banking business and providing credit facilities to members. The different heads of deduction are distinct; income satisfying one head is not defeated merely because it fails the conditions of another (paragraphs 18-22).

Section 80P(4) excludes co-operative banks, subject to its express exceptions. On this issue the appellant succeeded: it did not fall within the statutory co-operative-bank definition, lacked the RBI licence required for that banking business, and RBI had itself clarified that its business did not amount to that of a co-operative bank. The denial could therefore not be sustained on section 80P(4) alone (paragraphs 23-24).

The decisive reason was the accepted factual record of its actual operations. Alongside ordinary or resident members, the society had created a category described as nominal members who were not members in the legal sense found applicable. Most business was with this second category; deposits were placed in fixed deposits for returns, and part financed gold loans to ordinary members. The Court recorded that depositors and borrowers were distinct, that the activity was in substance a finance business, and that loans were also made to the general public without the requisite Registrar approval. It adopted the findings of violation of the co-operative legislation in that setting (paragraph 25; see also the Assessing Officer findings reproduced in paragraph 15).

In that same factual setting the Court relied on the finding that mutuality was absent. The reproduced assessment discussion addressed dealings with outside banks or investments and the failure to establish identity and participation in the surplus. The Court treated these findings as unshaken through the High Court stage and concluded that this appellant could not claim the deduction as a society providing credit facilities to its members (paragraphs 26-27). The awkwardly worded three-condition list within the quotation is not restated here as a universal test of mutuality.

Source: [reported judgment / paragraphs 18-24 / PDF pages 15, 16, 17 / judicial text](#); [reported judgment / paragraphs 25-27 / PDF pages 18, 19 / judicial text](#)

03 JUDICIAL DECISION

Although section 80P(4) did not exclude the appellant as a co-operative bank, the deduction failed on the accepted membership, public-lending and mutuality findings. Civil Appeal No. 10245 of 2017 was dismissed with costs (paragraphs 24-28).

Source: [reported judgment / paragraphs 24-28 / PDF pages 17, 18, 19 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue overall; assessee on the separate section 80P(4) classification question

Assessee appeal dismissed with costs; section 80P deduction denial sustained

Final deduction determination on the factual record for AY 2009-10

No blanket exclusion of all credit societies or all nominal members is certified. Section 68 deletion remained outside the appeal. The later Mavilayi distinction is separately recorded.

Source: [reported judgment / paragraphs 27-28 / PDF pages 19 / judicial text](#); [reported judgment / paragraphs 6 / PDF pages 8 / judicial text](#)

05 AKHB REVIEW POINT

Check the governing membership law, actual admission records, deposit and loan counterparties, permissions and income streams before using Citizen. Its outcome cannot be reduced either to an RBI-licence exclusion, which the Court rejected here, or to the label nominal member. The Court also recorded the later multi-State registration; the note preserves that history and the violations found in this particular case without independently deciding the operation of every registration statute.

A bounded check of the later three-judge Mavilayi judgment is essential. Mavilayi paragraphs 20-26 explained Citizen's ratio and separated its legal propositions from the adverse factual conclusion. Paragraphs 33 and 45 distinguished eligibility from attribution: lending to non-members does not by itself destroy deduction for qualifying member-credit profits, but profits attributable to non-member loans cannot be deducted under that limb. Paragraphs 46-47 distinguished Kerala legislation, under which nominal members were members and specified non-member loans were lawful. This is a factual and statutory distinction, not an overruling of Citizen.

Do not generalise the final sentence of Citizen paragraph 25 into a rule that co-operative credit societies are inherently ineligible. Keep statutory deduction, membership status, income attribution and common-law mutuality as identified questions requiring their own facts. The later-treatment check is limited to the recorded Mavilayi passages; there is no comprehensive current-law or Income-tax Act, 2025 certification.

Source: [reported judgment / paragraphs 5\(i\); 15; 24-27 / PDF pages 7, 13, 14, 17, 18, 19 / judicial text](#); [later treatment reported judgment / paragraphs 20-26 / PDF pages 32, 33, 34, 35, 36, 37, 38, 39, 40 / judicial text](#); [later treatment reported judgment / paragraphs 32-33; 45-47 / PDF pages 42, 43, 50, 51 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: Section 80P(4) co-operative-bank exclusion

Result: This appellant was not caught by the exclusion

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 17

Paragraphs: 23-24

Source role: judicial text

2.

Issue: Deduction under section 80P(2)(a)(i) on the actual activities

Result: Denied on the unshaken membership/public-business and mutuality findings

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 18; 19

Paragraphs: 25-28

Source role: judicial text

3.

Issue: Section 68 addition

Result: Deletion had attained finality and was not considered

In whose favour: Not decided in this appeal

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: 6

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

68; 143(2); 260A; 269SS; 269T; 271D; 271E

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 80P(1); 80P(2)(a)(i); 80P(4)

Role: principal deduction and exclusion provisions

Basis: The bank exclusion did not apply to this appellant; deduction nevertheless failed on the accepted activity, membership and mutuality findings.

2.

Act: Income-tax Act, 1961

Section: 2(19)

Role: definition context

Basis: Paragraph 3 identifies the definition of a co-operative society.

3.

Act: Income-tax Act, 1961

Section: 68

Role: expressly outside this appeal

Basis: The Commissioner (Appeals) deleted the addition; paragraph 6 states that this aspect had attained finality.

4.

Act: Income-tax Act, 1961

Section: 143(2); 260A

Role: procedural background

Basis: Scrutiny notice and High Court appeal route.

5.

Act: Income-tax Act, 1961

Section: 269SS; 269T; 271D; 271E

Role: historical submissions and quoted earlier proceedings

Basis: No cash-deposit or penalty issue is independently adjudicated here.

6.

Act: Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995

Section: 5; 19

Role: formation and membership/activity framework

Basis: The Court records the initial Andhra Pradesh registration, later multi-State registration, and the factual violations found under the Andhra Pradesh legislation.

7.

Act: Multi-State Co-operative Societies Act, 2002

Section: 2002 Act registration

Role: formation history

Basis: The appellant obtained multi-State registration by certificate dated 26 July 2005; this fact is preserved rather than treating it as solely a State-registered society.

8.

Act: Banking Regulation Act, 1949

Section: 5(b); Part V

Role: banking-status context

Basis: Banking definition, RBI licence and RBI clarification considered for the section 80P(4) question.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2017-08-08-citizen-cooperative-society

Later case id: sc-2021-01-12-mavilayi

Relationship: ratio explained and adverse fact specific result distinguished

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 32; 33; 34; 35; 36; 37; 38; 39; 40

Paragraphs: 20-26

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 42; 43; 50; 51

Paragraphs: 32-33; 45-47

Source role: judicial text

Scope limit: Mavilayi distinguishes Citizen's unlawful nominal-member/nonmember activity findings and the applicable membership legislation. It preserves qualifying member-credit income while excluding profits attributable to non-member loans; it does not overrule Citizen.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 19 PDF pages; SHA-256

81fa665b7fa1672dee69c29715efb5a6775fdb28db0e2e5596caacd8c738ed42. Original bytes preserved.

Judicial paragraphs 1-28 occupy physical pages 5-19 (SCR 365-379). Pages 1-4 contain the reported cover, editorial headnote, references and jurisdiction; page 5 begins with appearances. The final reporter credit is editorial. No neighbouring judgment is included.

[Open cited source rendition](#)

Printed SCR citation, title, judicial date and bench checked against the preserved reported rendition; catalogue INSC metadata is not independently certified as a neutral citation.

The appeal concerns AY 2009-10. AYs 2006-07, 2007-08 and 2008-09 occur in quoted earlier Tribunal proceedings and are not additional assessment years decided by this appeal.

The preserved reported rendition is the primary source; no separately retrieved signed 2017 original or cryptographic signature verification is claimed.; The printed narrative and assessment table disagree on the exact section 80P figure (Rs. 4,26,37,081 versus Rs. 4,26,37,817); approximately Rs. 4.26 crore is used without resolving the conflict.; The section 68 addition was deleted and is expressly outside this appeal; the tax computation reproduced in paragraph 5 is not the operative Supreme Court liability.; Paragraph 26 reproduces an awkward and apparently defective list of mutuality conditions. The note reports the actual fact-specific absence finding without turning that list into a general legal formulation.; Mavilayi's quotation uses shifted paragraph numbering after Citizen paragraph 21. Pinpoints to Citizen use this source's actual paragraphs 23-28; pinpoints to Mavilayi use Mavilayi's own paragraphs, not the quoted internal numbers.; The broad closing language in paragraph 25 must be read with paragraphs 18-24 and the later Mavilayi explanation; credit societies are not treated as categorically excluded.

STATUTORY SCOPE

Section 80P(2)(a)(i) and section 80P(4), inserted by Finance Act, 2006 with effect from 1 April 2007, considered for AY 2009-10; governing membership status and actual activities as found in this record.

Historical decision and specified bounded cross-case passages only. No comprehensive later-treatment or amendment audit and no automatic Income-tax Act, 2025 equivalence.

LATER TREATMENT

Source checked 2026-10-04. Mavilayi (12 January 2021) paragraphs 20-26, 32-33 and 45-47 were checked directly for the precise bounded relationship recorded below. No comprehensive subsequent judicial treatment, review/stay or statutory-currentness audit was performed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 19](#)

SHA-256: 81fa665b7fa1672dee69c29715efb5a6775fdb28db0e2e5596caacd8c738ed42

[later treatment reported judgment - PDF pages: 52](#)

SHA-256: ace30ce932a9c2f739a18535ad97883861be97fa4a8be670b15537c55b6109be

[Related note: The Mavilayi Service Cooperative Bank Ltd. and Others v. Commissioner of Income Tax, Calicut and Another](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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