

The Mavilayi Service Cooperative Bank Ltd. and Others v. Commissioner of Income Tax, Calicut and Another

Civil Appeal Nos. 7343-7350 of 2019 / Civil Appeal No. 8315 of 2019 / Civil Appeal arising from SLP(C), Diary No. 31268 of 2019

[2021] 1 SCR 78 | 2021-01-12

Whether registered co-operative credit societies lose section 80P(2)(a)(i) deduction after the introduction of section 80P(4) because their loans are predominantly non-agricultural, and how actual member-credit activity, State-law membership and co-operative-bank status affect eligibility and the deductible income.

80P | 2(19)

Three-judge bench | R. F. Nariman, J. | Navin Sinha, J. | K. M. Joseph, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

The batch comprised co-operative societies registered as primary agricultural credit societies together with one multi-State co-operative society. The judgment records that the societies claimed to provide agricultural and allied credit to members and had received section 80P(2)(a)(i) deduction up to Assessment Year 2007-08. Following the insertion of section 80P(4), the Assessing Officers denied claims because the audited receipts and disbursements indicated that agricultural credit was negligible and member loans were predominantly for other purposes (paragraphs 1-3).

The Kerala High Court had taken divergent approaches. Chirakkal treated the Registrar's primary agricultural credit society classification as sufficient and rejected a further inquiry into actual agricultural lending; Perinthalmanna required a factual inquiry into banking activity despite the label. The Full Bench, in its judgment of 19 March 2019, relied heavily on Citizen Cooperative Society and held that continued performance of the classified agricultural-credit objects had to be established for the relevant year. The societies challenged that approach (paragraphs 3-6).

The Court also examined the governing statutes, rules and sample Mavilayi bye-laws. Those bye-laws covered agricultural lending but also permitted other member loans and a range of other activities. The dispute therefore required separating the society's registration and classification, its actual qualifying activities, the income attributable to those activities and the distinct exclusion for co-operative banks (paragraphs 11-15).

Source: [reported judgment / paragraphs 1-6 / PDF pages 7, 8, 9, 10 / judgment](#); [reported judgment / paragraphs 11-15 / PDF pages 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 / judgment including statutory and bye law extracts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 80P is a beneficial provision supporting the co-operative sector and must be read liberally and reasonably, resolving ambiguity in the assessee's favour. Its different heads are separate: satisfaction of one head is not defeated merely because another head's conditions are unmet. The Court examined Kerala State Cooperative Marketing Federation and Citizen Cooperative Society to explain that structure. It rejected the Full Bench's use of Citizen's adverse factual result as a general rule denying relief to these societies (paragraphs 16-27 and 45).

The initial registration inquiry under section 2(19) asks whether the assessee is a co-operative society, not whether the State Registrar has classified it as a particular type. But registration alone does not establish the deduction. Gross total income must include income of the prescribed kind, and the society must actually be engaged in providing credit facilities to its members. The assessee bears the evidential burden. The Assessing Officer may examine the relevant facts, including under section 133(6), and scrutinise the claimed member-credit activity. That inquiry is not impermissibly going behind the registration certificate. The Court found neither side's broader reclassification argument necessary because section 80P(2)(a)(i) does not require the claimant to be a primary agricultural credit society in the first place (paragraphs 28-32).

Member-credit activity is not confined to agricultural loans. The Court contrasted the absence of that restriction in section 80P(2)(a)(i) with express agricultural or society-type restrictions elsewhere in section 80P. Lending to non-members does not, by that fact alone, destroy eligibility for the qualifying member-credit income; however, profits attributable to non-member loans cannot be deducted under the member-credit limb. Eligibility and the amount of attributable profits are distinct inquiries. The discussion of the capped residuary head and the separate interest/dividend head reinforces the provision's structure; it does not exempt all receipts of a registered society (paragraphs 33-35).

Section 80P(4) operates as a proviso excluding co-operative banks, subject to its express exceptions, rather than importing an agricultural-purpose requirement into every member loan under section 80P(2)(a)(i). The Finance Minister's speech, CBDT materials and the Banking Regulation Act framework showed an object of excluding co-operative banks functioning like commercial banks. The Court connected that framework with banking as acceptance of public deposits for lending or investment, the statutory bank definitions and the RBI licensing requirement. It also recorded that RBI had refused banking licences to certain primary agricultural credit societies because they were outside that licensing framework. The statutory language and the actual nature of the business remain important; the discussion is not an automatic tax exemption merely because an entity has no licence (paragraphs 36-45).

Citizen Cooperative Society was distinguished on its facts. Mavilayi explained that Citizen's section 80P(4) reasoning favoured that assessee, but deduction had failed in light of the findings about its activities with nominal members not recognised under the relevant Andhra

02 DISCUSSION BY THE HON'BLE COURT

Pradesh legislation and dealings with the general public. Mavilayi did not overrule Citizen or establish that all nominal members everywhere qualify. For the Kerala societies, section 2(l) expressly includes nominal or associate members, so loans to those members qualify for the member-credit deduction. The governing membership law is therefore critical (paragraphs 20-26 and 46).

The Kerala Act also permits specified lending to non-members: section 59(2) permits a loan to a depositor on the security of that deposit, and section 59(3) subjects lending and recovery to the Registrar's prescribed manner. Those provisions distinguished the illegality findings in Citizen. The legality of such a non-member loan does not convert its profits into deductible member-credit income; paragraph 45 expressly preserves the exclusion of profits attributable to non-member loans (paragraphs 45-47).

Source: [reported judgment / paragraphs 16-27 / PDF pages 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 / judgment](#); [reported judgment / paragraphs 28-32 / PDF pages 41, 42 / judgment](#); [reported judgment / paragraphs 33-35 / PDF pages 42, 43, 44 / judgment](#); [reported judgment / paragraphs 36-45 / PDF pages 44, 45, 46, 47, 48, 49, 50 / judgment](#); [reported judgment / paragraphs 46-47 / PDF pages 50, 51 / judgment](#); [official signed judgment / paragraphs 32-33 / PDF pages 53, 54, 55 / judgment](#); [official signed judgment / paragraphs 45-47 / PDF pages 64, 65, 66, 67 / judgment](#)

03 JUDICIAL DECISION

The Court held that non-agricultural lending to members does not itself defeat section 80P(2)(a)(i) deduction once the section 80P(4) exclusion is inapplicable. Profits attributable to loans to non-members remain outside the member-credit deduction, while nominal members recognised under the Kerala Act count as members. The Court set aside the impugned Full Bench judgment. It disposed of the appeals and all pending applications and directed that the appeals be placed before appropriate benches of the Kerala High Court for disposal on merits in light of its judgment (paragraphs 45-48). The common order does not finally compute the deduction, give a quantified refund, or grant an unconditional exemption for every receipt of every appellant.

Source: [reported judgment / paragraphs 45-48 / PDF pages 50, 51, 52 / judgment](#); [official signed judgment / paragraphs 45-48 / PDF pages 64, 65, 66, 67 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee societies on the legal interpretation; individual merits returned to the Kerala High Court

Full Bench judgment set aside; appeals and pending applications disposed of; appeals directed to appropriate Kerala High Court benches for merits disposal in light of the judgment

Governing section 80P principles decided; individual appeal merits and income attribution left for High Court disposal

No blanket deduction based solely on registration, a primary agricultural credit society label or lack of an RBI licence. Non-member loan profits are not deductible as member-credit income. Kerala nominal membership is governed by that State statute, not a universal label-based rule.

Source: [reported judgment / paragraphs 48 / PDF pages 52 / judgment](#); [official signed judgment / paragraphs 48 / PDF pages 67 / judgment](#)

05 AKHB REVIEW POINT

For a comparable claim, separately document registration, actual member-credit activity, lawful admission to membership, income attribution and whether section 80P(4) applies under the relevant banking definitions. Reconcile the membership register, governing statute and bye-laws with loan records and accounts. A Registrar's classification does not replace that evidence; nor does predominantly non-agricultural lending to members by itself establish the co-operative-bank exclusion.

Keep three distinctions visible: a nominal member recognised by the governing law is different from a true non-member; a lawfully permitted non-member loan is different from deductible member-credit income; and absence of an RBI licence is different from proof of the entity's statutory banking status. Attribute profits to the qualifying activity rather than claiming every receipt under a registration-based exemption. Other income heads require their own statutory analysis.

The operative result is a merits disposal direction to the Kerala High Court after correction of the Full Bench's legal approach. The narrow KSCARDB relationship recorded below supports this activity-and-classification framework, including the eligibility/attribution distinction; it does not certify all later law or alter Mavilayi's remand. Check the relevant assessment-year legislation, later treatment and any proposed application under the Income-tax Act, 2025 separately.

Source: [reported judgment / paragraphs 28-33;39-40;45-48 / PDF pages 41, 42, 43, 45, 46, 50, 51, 52 / judgment](#); [later treatment reported judgment / paragraphs 14.1-14.6;15.13;Conclusion / PDF pages 43, 44, 45, 46, 51, 52 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

133(6); 147; 143(3); 144; 263

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

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

Role: principal provisions construed

Basis: Eligibility for member-credit deduction, attribution of profits and gains, and the co-operative-bank exclusion.

2.

Act: Income-tax Act, 1961

Section: 2(19)

Role: definition applied

Basis: Registration as a co-operative society, rather than a particular State-law classification, for the initial eligibility inquiry.

3.

Act: Income-tax Act, 1961

Section: 133(6)

Role: supporting fact-finding power

Basis: Paragraph 32 preserves factual examination of whether the society actually provides credit facilities to members.

4.

Act: Income-tax Act, 1961

Section: 80P(2)(a)(iii)-(vii); 80P(2)(b)-(d)

Role: interpretive comparisons

Basis: Separate heads, express activity or society restrictions, capped residuary relief and investment income explain the structure of section 80P; no quantified claim under these other heads is adjudicated.

5.

Act: Income-tax Act, 1961

Section: 147; 143(3); 144; 263

Role: prior High Court proceeding context

Basis: These provisions appear in the account of Chirakkal and Perinthalmanna; no independent reopening or revision issue is decided here.

6.

Act: Banking Regulation Act, 1949

Section: 3; 5(b); 22(1)(b), as applicable to co-operative societies; 56 and Part V definitions

Role: co-operative-bank classification and banking-business context

Basis: Public-deposit banking, the statutory bank categories, licensing and the primary agricultural credit society distinction inform section 80P(4).

7.

Act: Kerala Co-operative Societies Act, 1969

Section: 2(l); 2(m); 2(oaa); 8; 59

Role: registration, membership and authorised lending context

Basis: Nominal or associate members fall within the State definition; specified loans to non-member depositors are permitted, without making their profits deductible as member-credit income.

8.

Act: Kerala Co-operative Societies Rules, 1969

Section: Rule 15

Role: classification background

Basis: The Registrar classification provision is reproduced; it is not treated as conclusively determining every income-tax deduction.

TREATMENT OF PRECEDENTS IN THIS JUDGMENT

1.

Case: Citizen Cooperative Society Ltd. v. Assistant Commissioner of Income Tax, Hyderabad

Citation as printed: (2017) 9 SCC 364

Treatment: Legal principles explained and applied; adverse factual result distinguished

Paragraphs: 20-26;45-47

Limit: Not overruled. The deduction failure in Citizen is not converted into a universal nominal-member or agricultural-loan bar.

2.

Case: Kerala State Cooperative Marketing Federation Ltd. and Others v. Commissioner of Income Tax

Citation as printed: (1998) 5 SCC 48

Treatment: Relied upon for beneficial construction and distinct heads of deduction

Paragraphs: 18-19;21;33

Limit: Its historical agricultural-produce discussion is not a new merits decision here on every other section 80P activity or a certification of the present statutory text.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 67 PDF pages; SHA-256 a455fa23e0b472ec7335045dee7a4e938d55e030f01bf6a6a71bbf115785628b. Original bytes preserved. One reportable common judgment: opening and paragraph 1 on page 1; paragraphs 2-48 continue to page 67, followed by signatures and date on that page. Cover, opening, core eligibility and attribution reasoning, section 80P(4) treatment, membership, disposition, signatures and date checked against the completely read reported judicial text. No full independent rereading of all 67 official pages is claimed.

Open cited source rendition

The reported and official jurisdiction blocks leave the new 2021 appeal and SLP(C) numbers blank for Diary No. 31268 of 2019; no number is invented.

Assessment Year 2007-08 is mentioned only as the endpoint of historical deduction allowance; the years of the individual appealed assessments are not enumerated.

Paragraph 34 prints section 80P(1)(c); the context and reproduced statute identify the residuary clause as section 80P(2)(c). Both source renditions are preserved unchanged.

The source quotation of the Rule 15 classification table on reported page 24 is not captured in the supplied page text; its complete table was read visually.

The judicial text ends with paragraph 48. The reporter credit and Appeals disposed of label are not independent judicial reasoning.

Paragraph numbers quoted for Mavilayi inside KSCARDB differ from the numbering in the Mavilayi original and SCR rendition. This note pins Mavilayi to its own paragraphs and identifies the later discussion by KSCARDB's own paragraph numbers.

Only the expressly bounded KSCARDB later relationship is verified; overall later treatment and current statutory law remain unverified.

Reported citation verified on the source cover. No neutral citation is inferred from catalogue metadata.

Paragraph 2 states that deduction had been granted up to Assessment Year 2007-08. This is historical background, not an enumeration of the years under appeal. The judgment does not assign every appeal to an assessment year, so no appealed-year range is invented.

The original cover and reported jurisdiction block leave the new 2021 Civil Appeal and SLP(C) numbers blank for the proceeding arising from Diary No. 31268 of 2019. Paragraph 1 grants leave in that proceeding and allows I.A. Nos. 192273 and 192277 of 2019. No missing appeal number is supplied. Paragraph 48 disposes of the common batch and directs merits disposal before the appropriate Kerala High Court benches.

STATUTORY SCOPE

Income-tax, banking and Kerala co-operative provisions as reproduced and analysed in the 12 January 2021 judgment; the selected 2023 later treatment is separately bounded.

No automatic mapping to the Income-tax Act, 2025, comprehensive amendment audit, present licensing-status verification or current deduction certificate.

LATER TREATMENT

Source checked 2026-10-04. One narrow later relationship with KSCARDB (14 September 2023) has been assessed from its complete relevant reasoning and is recorded separately below. Subsequent treatment, review proceedings, stays and statutory amendments have not been comprehensively checked. This note is not a current-law or citator certificate.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 67](#)

SHA-256: a455fa23e0b472ec7335045dee7a4e938d55e030f01bf6a6a71bbf115785628b

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

SHA-256: ace30ce932a9c2f739a18535ad97883861be97fa4a8be670b15537c55b6109be

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

SHA-256: 8fd6aed9413fdaf682da06e162862fc065dcf2e7cca548d97aa60f7df4a6d090

[later treatment official judgment - PDF pages: 65](#)

SHA-256: 62767a5c0474d7fc97fe8dc2ba2ca7007258ad3adce46a32257d7dbdf3e430d7

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