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# THE HOUSING TIMES

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फेडरेशनचे सर्व सभासद, वाचक व  
दि हौसिंग टाईम्सचे जाहिरातदार आणि हितचिंतकांना

# राम नवमी च्या

## हार्दिक शुभेच्छा...



# सोसायट्यांसाठीचे स्टेशनरी साहित्य फेडरेशनच्या सर्व सेल काउंटरवर उपलब्ध

सहकारी गृहनिर्माण संस्थांना आवश्यक असणाऱ्या स्टेशनरी विक्रीसाठी घाटकोपर तसेच अंधेरी (पूर्व), बोरिवली पूर्व) तसेच चारकोप-कांदिवली येथे स्टेशनरी विक्री केंद्रे सुरू करण्यात आली आहेत. फेडरेशनच्या फोर्ट कार्यालयातही अर्थात स्टेशनरी साहित्य विक्रीस उपलब्ध आहेत.

मुंबई डिस्ट्रिक्ट को-ऑप हाऊसिंग फेडरेशनतर्फे सभासद सहकारी गृहसंस्था व त्यांच्या पदाधिकाऱ्यांना संस्थेचे कामकाज चालविण्यासाठी आवश्यक असलेल्या स्टेशनरीची विक्री फेडरेशनच्या मुख्य कार्यालयातून केली जाते. मात्र संस्थेच्या पदाधिकाऱ्यांचा मुंबईच्या मुख्य कार्यालयात स्टेशनरी विकत घेण्यासाठी येण्याजाण्याच्या त्रास कमी व्हावा या उद्देशाने घाटकोपर येथे फेडरेशनचे संचालक श्री. अजय बागल यांच्या तसेच कांदिवली- चारकोप येथे फेडरेशनचे संचालक श्री. विजय शेलार यांच्या पुढाकाराने सहकारी गृहनिर्माण संस्थांना आवश्यक साहित्य-स्टेशनरी विक्री केंद्रे सुरू करण्यात आली आहेत.

## घाटकोपर केंद्र

समर्थ सेवा संघ, घाटकोपर संत ज्ञानेश्वर मार्ग, इमारत क्र. १४ समोर, गणेश मंदिर जवळ, पंतनगर घाटकोपर (पूर्व), मुंबई ४०००७५.  
वेळ - सोमवार ते शनिवार  
सकाळी १०.३० ते दुपारी १.३० संध्या. ४ ते ८  
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## चारकोप- कांदिवली केंद्र

सी-१, लिलॅक गार्डन को-ऑप हाऊसिंग सोसायटी, आनंद हॉस्पिटल शेजारी, ९० फुटी रोड, गणेश चौक, सेक्टर ३ समोर, चारकोप, कांदिवली (प.) मुंबई ६७  
सोमवार ते शुक्रवार स १०.३० ते संध्या. ६.००  
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संपर्क - ८८२८१५४५३०

## अंधेरी केंद्र

रूम क्रमांक १०, तळमजला, एकदंत सोसायटी,  
इमारत क्रमांक ३, संभाजीनगर, सहार रोड,  
डी मार्ट समोर, अंधेरी (पूर्व), मुंबई ६९.  
संपर्क ९०२९६३२७२१/९०२९६०६००४



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## हाऊसिंग फेडरेशनला संपर्क साधण्यासाठी:

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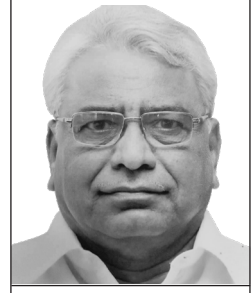
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## NO TAX ON INTEREST EARNED BY CO-OPERATIVE SOCIETY FROM CO-OPERATIVE BANK

गृहनिर्माण सहकारी संस्थांनी जिल्हा मध्यवर्ती बँका अथवा नागरी सहकारी बँकांमध्ये केलेल्या गुंतवणुकीवरील व्याजाचे उत्पन्न आयकर कायद्यातील कलम 80 P (2) (d) नुसार करपात्र नाही.

महाराष्ट्रामध्ये विविध प्रकारच्या प्राथमिक सहकारी संस्था महाराष्ट्र सहकारी संस्था अधिनियम १९६० व नियम १९६१ मधील असलेल्या तरतुदीनुसार नोंदणी झालेल्या आहेत प्राथमिक सहकारी संस्थांमध्ये गृहनिर्माण सहकारी संस्था, अर्बन को-ऑप क्रेडिट सोसायटी, प्रायमरी अँग्रीकल्चर को-ऑप सोसायटी तसेच मजुर संस्था व शेती व्यवसायाशी पुरक असलेल्या प्राथमिक सेवा देणाऱ्या सहकारी संस्था, औद्योगिक व्यवसायासाठी Industrial society इत्यादींचा समावेश होतो. महाराष्ट्र सहकारी संस्था अधिनियम १९६० नुसार व त्याअंतर्गत असलेल्या नियमावलीनुसार राज्यामध्ये तीन स्तरीय सहकारी संस्थांची रचना म्हणजेच प्राथमिक सहकारी संस्था, जिल्हा स्तरीय सहकारी संस्था व राज्य स्तरीय सहकारी संस्था अशा संरचना आहेत. सहकारी कायदा व त्या अंतर्गत विविध सहकारी संस्थांसाठी महाराष्ट्र शासनाने माननीय सहकार आयुक्त व निबंधक सहकारी संस्था यांच्या माध्यमातून तयार केलेले व लागू केलेल्या उपविधीप्रमाणे या सहकारी संस्था कामकाज करतात सहकारी कायदा व उपविधीतील तरतुदीनुसार या सहकारी संस्थांना त्यांचे वैधानिक निधी व अतिरिक्त निधी जिल्हा मध्यवर्ती बँका, राज्य सहकारी बँकांमध्ये गुंतवावे लागतात. तसेच महाराष्ट्रामध्ये नागरी सहकारी बँका राज्याच्या कार्यक्षेत्रात कार्यरत असल्याने अनेक प्राथमिक संस्था त्यांचे निधी नागरी सहकारी बँकेत ही गुंतवित असतात, अशाप्रकारे प्राथमिक सहकारी संस्थांना सहकारी बँकात केलेल्या गुंतवणुकीवर व्याजाचे उत्पन्न मिळत असते.



संपादक  
वसंतराव एन शिंदे

केंद्र शासनाच्या आयकर कायद्याच्या तरतुदीनुसार आयकर भरावा लागतो. तथापि आयकर कायद्यातील कलम 80 P (2) (d) तरतुदीनुसार प्राथमिक सहकारी संस्थांना आयकर करामध्ये सवलत दिलेली आहे. महाराष्ट्र सहकारी संस्था अधिनियम १९६० व नियम १९६१ च्या अंतर्गत नोंदविलेल्या प्राथमिक सहकारी संस्थांना त्यांनी जिल्हा मध्यवर्ती

बँका किंवा नागरी सहकारी बँका तसेच इतर सहकारी बँकांमध्ये गुंतवणुक केलेल्या ठेवींवर जे व्याजाचे उत्पन्न मिळते असे उत्पन्न करपात्र नाही तथापी आयकर कायदयातील व त्या अंतर्गत असलेल्या तरतुदीनुसार ठरवुन दिलेल्या मर्यादेपेक्षा व्याजाचे अधिक उत्पन्न उदा. बारा हजारापेक्षा अधिक उत्पन्न मिळाल्यास TDS कपात केला जातो व सदर कपात केलेल्या TDS ची रक्कम त्या संस्थेच्या पॅनवर आयकर विभागाकडे जमा केली जाते. महाराष्ट्रामध्ये एक लाख पंचवीस हजारापेक्षा अधिक गृहनिर्माण संस्था नोंदणीकृत आहेत गृहनिर्माण संस्था त्यांच्या उपविधीतील तरतुदीनुसार सिंकिंग फंड, रिपेअर फंड, तसेच इतर अनुषंगिक निधी निर्माण करतात त्याच प्रमाणे गृहनिर्माण सहकारी संस्थाकडे सभासदाचे भागभांडवल तसेच मेजेर रिपेअरिंग फंड, राखीव निधी जमा होतात. गृहनिर्माण संस्थाकडील अशा वैधानिक निधींची व अतिरिक्त निधींची गुंतवणुक सहकार कायदयाप्रमाणे सहकारी बँकात केली जाते. तसेच काही गृहनिर्माण सहकारी संस्था, राष्ट्रीयकृत बँका अथवा खाजगी बँकाही गुंतवणुक करतात. सहकारी बँकात गृहनिर्माण सहकारी संस्थांनी केलेल्या गुंतवणुकीवरील मिळणाऱ्या व्याजाचे उत्पन्न ठरवुन दिलेल्या मर्यादेपेक्षा जास्त असेल तर TDS कपात केली जाते. आयकर कायदयानुसार सहकारी बँकेतील गुंतवणुकीवर मिळणारे व्याज करपात्र नसल्याने आयकर विभागाकडे भरणा केलेली TDS ची रक्कम ठरवुन दिलेल्या वेळेत आयकर रिटर्न फाईल करून TDS ची रक्कम आयकर विभागाकडून परत घेता येते यामुळे संस्थांनी आयकर विभागाच्या नियमाप्रमाणे विहित वेळेच्या आत रिटर्न फाईल करून TDS ची मागणी करावी. तथापि या गृहनिर्माण संस्थांनी आपले निधी सहकारी बँकाऐवजी इतर बँकात गुंतवणुक केलेली असल्यास सदर गुंतवणुकीवर मिळालेल्या व्याजावर संस्थांना आयकर कायदयातील तरतुदीनुसार सवलत मिळत नाही. त्यामुळे आयकर भरावा लागतो.

नुकत्याच २०२५-२६ च्या अंदाज पत्रकानुसार जाहीर केलेल्या आयकर प्रणालीनुसार काही सुधारणा झालेल्या आहेत. तद् अनुषंगाने सहकारी गृहनिर्माण संस्थांनी आपल्या सनदी लेखापाल (Chartered Accountant) यांचा सल्ला घेऊन आयकर वाचवावा व गुंतवणुक करावी.

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## “बचत पाण्याची, गरज काळाची”

मुंबई शहरातील वाढती लोकसंख्या लक्षात घेता, २०२६ या वर्षी कडक उन्हाळा बघता दरवर्षी असणाऱ्या उष्णतेच्या प्रमाणापेक्षा जास्त उष्णता राहण्याचे प्रमाण नाकारता येत नाही. प्रख्यात हवामान तज्ञांचा अंदाज बघता यावर्षी नेहमी पेक्षा किमान २ ते ३ डिग्री तापमान वाढण्याची शक्यता नाकारता येत नाही. मुंबई शहराला पाणी पुरवठा करणाऱ्या धरणांमध्ये आज रोजी ४६ ते ५० टक्क्यांपर्यंत पाणी साठा शिल्लक आहे व मुंबई शहराची तहान भागवणाऱ्या धरणांमधून मुंबई शहराला पाणी पुरवठा होत असतो. तसेच मुंबई शहराच्या आजूबाजूला समुद्र व समुद्र खाडी असल्यामुळे मुंबईतील भुगर्भातील पाण्याचा साठा हा सिमीत असल्याचे मान्य करावे लागेल. त्यातही मुंबई शहरात बऱ्याचश्या ठिकाणी टँकरने पाणी पुरवठा करण्यात येतो अशा परिस्थितीत पाणी वाचवण्यासाठी आणि संवर्धन करण्यासाठी मुंबईकरांनी प्रयत्न करणे गरजेचे आहे. त्यासाठी मुंबईकरांनी जास्तीजास्त पाणी वाचवणे गरजेचे आहे. याकरीता दुष्काळाची आपत्ती नको असेल तर जलसंपत्ती वाचवण्याची गरज आहे. मुंबईला पाणी पुरवठा करणाऱ्या तलाव क्षेत्रामधून मुंबई शहराला पुरवण्यात येणारे पाणी मोठ्या प्रमाणात असून कडक उन्हाळ्यामुळे तलावातील पाण्याचे बाष्पीभवन सुद्धा मोठ्या प्रमाणावर होत आहे. मुंबई शहरात पाण्याच्या तुटवड्यापासून वाचवायचे असेल तर, प्रत्येक गृहनिर्माण संस्थांमध्ये व त्या संस्थांच्या सदनिकांमध्ये वापरण्यात येणाऱ्या पाण्या संदर्भात मुंबईकरांनी खालील प्रयत्न करणे गरजेचे आहे.

- दैनंदिन उपयोगासाठी आवश्यक तेवढेच पाणी वापरणे गरजेचे आहे.
- आपल्या घरामध्ये धुणी भांड्यासाठी लागणारे पाणी आवश्यक तेवढे वापरा व त्याबाबत कामगारांना सुचना द्या.
- घरातील गळती होणारे नळ त्वरीत दुरूस्त करणे अत्यंत गरजेचे आहे.

- मुंबई शहरात चार चाकी वाहनांचे प्रमाण आवश्यकते पेक्षा जास्त आहे. चारचाकी वाहनांना धुण्यासाठी मर्यादीत पाण्याचा वापर करायला सांगा.
- पाण्यामुळे निसर्गाचा समतोल राखण्यास मदत होते व निसर्गाचा समतोल राखण्याचा प्रयत्न करणे ही आपली जबाबदारी आहे.

गृहनिर्माण सहकारी संस्थांनी आपआपल्या गृहनिर्माण संस्थेत कमीत कमी पाणी वापरा संदर्भात सर्व सदस्यांना सुचना द्या.

पाणी हे जिवन आहे आणि त्याचे जतन करणे गरजेचे आहे. माणसाला अन्न वस्त्र निवारा प्रमाणे पाण्याची सुध्दा तेवढीच आवश्यकता असते यासर्व बाबींचा विचार करता पाण्याचा वापर योग्य प्रमाणात करणे गरजेचे आहे.

भारतातील पाण्या संदर्भात १९७४ सालच्या जल धोरणानुसार पिण्याच्या पाण्याचे अपव्यय टाळणे, औद्योगिक सांडपाण्यावर प्रक्रिया करणे, भूजल उपशावर निर्बंध घालणे असे अनेक उपाय करणे गरजेचे आहे.

वरील सर्व बाबींचा विचार करता व वाढत्या उष्णतापमानाचा विचार करता मुंबईकरांनी पाण्याचा थेंब न् थेंब वाचवणे गरजेचे आहे. सध्या तरी पाण्याचा तुटवडा जाणवत नसला तरी, भविष्यात पाणी वापरावर कडक नियम लागू शकतात. घरगुती वापरासाठी प्रती माणसी ७० ते १०० लिटर पाणी पुरेसे मानले जाते. याबाबत भविष्यात निश्चितच उपाय योजना शासन करू शकते. तरी मुंबईकरांनो दूष्काळाची नको असेल आपत्ती, “तर वेळीच जपा जल संपत्ती”.

**प्रकाश य. दरेकर**

अध्यक्ष

दि मुंबई डिस्ट्रिक्ट को-ऑप हौसिंग फेडरेशन लि.



## **NO TAX ON INTEREST EARNED BY CO-OPERATIVE SOCIETY FROM CO-OPERATIVE BANK**

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"ANY INCOME BY WAY OF INTEREST OR DIVIDEND DERIVED FROM ITS INVESTMENT BY CO-OPERATIVE SOCIETY WITH ANY OTHER CO-OPERATIVE SOCIETY SHALL BE ELIGIBLE FOR DEDUCTION U/S 80P(2) (D)"

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Income Tax department's National Faceless Appeal Centre (NFAC) Order /s 250 of Income Tax Act, 1961

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This appeal emanates from the assessment order dated 30.11.2019 passed by the Asstt. Commissioner of Income Tax, Circle 26(2), Mumbai (hereinafter referred to as the "AO") under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment year 2017-18. The appeal was filed with the jurisdictional CIT (A)-38, Mumbai but subsequently, the appeal was migrated to the National Faceless Appeals Centre in terms of notification no.76/2020/F. NO.370142/33/2020-TPL dated 25.09.2020 issued by the Board.

2. Notices u/s 250 dated 29.12.2020 and 28.07.2022 were issued calling for submissions on or before 13.01.2021 and 04.08.2022 on ITBA portal respectively. The appellant sent written submission through ITBA vide reply dated 03.08.2022.

The case is decided on the basis of online communication.

3. In his order, the AO raised a demand of Rs. 40,87,684/- u/s 80P(2)(d) while passing order u/s 143(3) of the IT Act.
4. As per Form No. 35, the following grounds of appeal have been taken by the appellant:
  1. The learned Assessing officer has erred in rejecting appellant claim of deduction u/s 80P(2)(d) of Income Tax Act, 1961 to the tune of Rs.98.09.093.
  2. The learned AO has erred in interpreting section 80P(4) of the Income Tax Act, 1961.
  3. The Learned AO has erred in following the rule of consistency.
  4. Your appellant craves leave to add alter amend and or delete any of the above grounds of appeal.”
- 4.1 Fact of the case submitted by the appellant as per Form 35: “1. The appellant is a co-operative housing society and does not carry any other business. The appellant has filed the return of income declaring total income as NIL after claiming deduction u/s 80P(2)(d) of the Income Tax Act 1961 to the tune of Rs. 98,09, 093/-. The Ld AO disallowed deduction u/s 80P(2) (d) of Rs. 98,09, 093/- stating that a co-operative bank is not a co-operative society and interest income earned on saving and fixed deposits with co-operative banks is not deductible u/s 80P(2)(d).
- 4.2. The appellant submits that it is registered as “co-operative housing society “under The Maharashtra co-operative societies Act, 1960 read with The Maharashtra co-operative societies

rules, 1961. Further, as per section 2(19) of the Income Tax Act, 1961, “co-operative society” means a co-operative society registered under the co-operative societies Act, 1912 4 (2 of 1912), or under any other law for the time being in force in any state for the registration of co-operative societies.

- 4.3. The appellant also submits that the AO has ignored the definition of a co-operative bank given under The Maharashtra Co-operative Societies Act, 1960. The said definition is “co-operative bank means a society, which is doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the banking companies Act, 1949 and includes any society which is functioning or is to function as [an agriculture and rural development bank] under chapter XI.
- 4.4. The appellant also submits that as per classification and sub-classification of societies under The Maharashtra co-operative societies rules, 1961, it is clearly evident that that “co-operative bank” and “co-operative housing society” are categories of co-Operative societies.
- 4.5. The appellant further state that, it has already aessed u/s 143(3) of the Act for A.Y. 2015-16 & 2016-17; wherein department has accepted our m for deduction u/s 80P(2)(d) of the Act towards Interest and Dividend income received from co-operative bank, a co-operative society.”
5. In the course of appellate proceedings, vide its reply dated 03.08.2022 the appellant has submitted as under: “With reference to the above subject, the appellant is in receipt of your notice

under, section 250 of the Income Tax Act, 1961 ('the Act') for the A.Y. 2017-18. At the outset, we would first like to list down grounds of appeal agitated:

5.1. The AO has erred in rejecting the appellant's claim of deduction u/s 80P(2)(d) of the Income Tax Act, 1961 to the tune of Rs. 98,09,093 for interest and dividend income received from co-operative bank, a co-operative society.

5.2. The AO has erred in interpreting section 80P(4) of the Income Tax Act, 1961.

5.3. The AO has erred in following the rules of consistency. With respect to the above grounds our submission is as under:

1. The appellant is a co-operative housing society and does not carry any other business. The appellant has filed the return of income declaring total income as NIL after claiming deduction u/s 80P(2)(d) of the Income Tax Act 1961 to the tune of Rs. 98,09,093/-. The Ld. AO disallowed deduction u/s 80P(2)(d) of Rs. 98,09,093/- stating that a co-operative bank is not a co-operative society and interest income earned on saving and fixed deposits from cooperative banks is not deductible u/s 80P(2)(d) of the Act.

2. Appellant, "M/s Pariwar co-op hsg. soc. Ltd" is registered as "co-operative housing society under The Maharashtra co-operative societies Act, 1960 read with The Maharashtra co-operative societies rules, 1961. Further, it is sub-classified as 'Tenant co-partnership society' under rule 10(1) of The Maharashtra co-operative societies rules, 1961.

3. During the year under consideration, appellant has earned interest on fixed deposits with co-operative banks of Rs.96,32,812, a saving bank account interest of Rs.1,76,220 from co-operative bank, a dividend of Rs. 61/- from co-operative society. Appellant is submitting herewith copy of computation of income, ITR form and ITR-V for your kind perusal.

4. The fact that appellant has earned interest & dividend Income of Rs.98,09,032 from co-operative banks during the A.Y. 2017-18 is undisputed and Id. AO has recorded the same fact.

5. We would like to draw your honour's kind attention towards some relevant provisions of the Act with respect to deduction u/s 80P(2)(d) claimed by the appellant.

*\*Deduction in respect of income of co-operative societies, section 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 subsection (2), in computing the total income of the assessee. Section 80P (2) The sums referred to in sub-section (1) shall be the following. namely: (d) in respect of any income by way of interest or dividends derived by the cooperative society from its investments with any other co-operative society, the whole of such income:*

The plain reading of the above provisions indicate that any income by way of interest or dividend derived from its investment by an appellant being co-operative society with any other co-operative society shall be eligible for deduction u/s 80P(2)(d).

6. Definitions of co-operative bank under The Maharashtra Co-operative Societies Act, 1960.

“co-operative bank” means a society, which is doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the banking companies Act, 1949 and includes any society which is functioning or is to function as (an agriculture and rural development bank) under chapter XI classification and sub-classification of societies under The Maharashtra co-operative societies rules, 1961

Sr. no.	Class	Sub-Class
	Co-operative bank	(a) Central bank (b) Other banks
	Housing Society	(a) Tenant ownership housing society (b) Tenant co-partnership housing society (c) Other housing society

7. Appellant state that it is evident from provisions of The Maharashtra co-operative societies Act, that “co-operative bank” and “co-operative housing society” are categories of co-operative societies.

8. To further substantiate our claim, appellant has placed reliance on the following legal pronouncements:

**I) Principal CIT, Hubli vs. Totagars Co-operative Sale Society** f20171 78 taxmann.com 169 (Karnataka)/[20171 392 ITR 74 (Karnataka HC) section 80P of the Income-tax Act, 1961 Deductions: Income of co-operative societies (Credit society) - Whether for purpose of section 80P(2)(d) a co-

operative bank should be considered as a co-Operative society - Held, yes Whether any interest earned by co-operative society from a co-operative bank would necessarily be deductible under section 80P(1) Held, yes (Paras 8&10) [In favour of Assessee.

**II) Commissioner of Income-tax vs. Haryana state co-operative housing society** 119981 234 ITR 714 (Punjab & Haryana)/ [1999]

Section 80P of the Income-tax Act, 1961 Deductions: Income of co-operative societies-Assessment year 1981-82 Whether short term deposits made by assessee co-operative society with another co-operative society were investments of assessee within meaning of provisions of section 80P(2)(d) and interest earned on these deposits was exempt under section 80P(2)(d) - Held, yes

**III) Land End co-operative hsg society Vs. I.T.O. (Mumbai Tribunal) I.T.A. No. 3566/2014**

"..... the provisions of section 80(P) (2)(d) of the Act provides for deduction in respect of income of a coop society by way of interest or dividend from its investments with other co-op society if such income is included in the gross total income of the such coop society. In view these facts and circumstances we are of the considered view that the assessee is entitled to the deduction of Rs. 14,88,107/- in respect of interest received/derived by it on deposits with coop, banks and therefore the appeal of the assessee is allowed by reversing the order of the CIT(A). The AO is directed accordingly.”

**IV) Sea Greenco-operative housing society Vs. I.T.O, (Mumbai Tribunal I.T.A, No. 1343/Mum/2017 5.1** It is clear that the Tribunal in the case of lands find co-operative housing society Ltd. (supra) has considered a similar situation and allowed the claim of the assessee. We find that the CIT(A) has placed reliance on the decision of the Ahmedabad bench of the tribunal in the case of State Bank of India employees co-operative credit society Ltd 57 taxman.com 367. It is further noted by the CIT(A) that the said decision of the Ahmedabad bench of the tribunal has been referred to by the SMC Bench of Mumbai Tribunal in the case of Shri Saidatta co-operative credit society Ltd. (supra). In our view, the reliance placed by the CIT(A) on the judgment of the Ahmedabad bench of the Tribunal is quite untenable, in as much as, in the said case the interest income in question was earned from deposits kept with State Bank of India. Obviously, State Bank of India is not a co-operative society so as to justify the claim that such interest earnings fall within the scope of section 80P(2)(d) of the Act. Further, the reliance placed by the CIT(A) on the decision of the SMC Bench of Mumbai tribunal in the case of Shri Saidatta co-operative credit society Ltd. (supra) is also of no avail, in as much as, the bench merely set-aside the matter to the file of the Assessing Officer for examination afresh, whereas in the case of lands End co-operative housing society Ltd (supra), the claim of exemption under section 80P(2)(d) of the Act with respect to the interest earned from a co-operative bank has been upheld. Therefore, in view of the said precedent, the claim of the assessee deserves to be allowed.

6. In view of the above, the order of the CIT(A) is set-aside and the AO is directed to allow deduction under section 80P(2)(d) of the Act with respect to the interest income earned from a co-operative bank.

7. In the result, appeal of the assessee is allowed, as above.” V) Kaliandas Udyog Bhavan Premises co-op society Ltd. Vs. I.T.O. [2018] 94 taxmann.com 15 (Mumbai-Trib.) “The issue involved in the present appeal hinges around the adjudication of the scope and gamut of sub-section (4) of section 80P, 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 80P, 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 co-operative 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 co-operative 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 80P, vide the Finance Act, 2006, With effect from 1-4-2007, the provisions of section 80P would no more be applicable in relation to any co-operative bank, 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 co-operative 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 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 80P would no more be entitled for claim of deduction under section



80P, but however, as a co-operative bank continues to be a co-operative 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 co-operative societies, therefore, the interest income derived by a cooperative society from its investments held with a co-operative bank, would be entitled for claim of deduction under section 80P(2)(d). [Para 7]

We further find that the Hon'ble High Court of Karnataka in the case of Totgars co-operative sale society (supra) and Hon'ble High Court o. Gujarat in the case of State Bank Of India (supra), had also held that the interest income earned by the assessee on its investments held with a co-operative bank would be eligible for claim of deduction u/s 80P(2)(d) of the Act. Still further, we find that the CBDT circular no. 14. dated 28.12.2006, as had been relied upon by the Id. A.R, also makes it clear beyond any scope of doubt. that the purpose behind enactment of sub-section (4) of Sec. 80P was to provide that the co-operative banks which are functioning at par with other banks would no more be entitled for claim of deduction under sec. 80P(4) of the Act. We are of the considered view that the reliance placed by the CIT (A) on the judgment of the Hon'ble Supreme Court in the case of Totgars co-operative sale society ltd. (supra) being distinguishable on facts, thus, had wrongly been relied upon by him. The adjudication by the Hon'ble Apex Court in the aforesaid case was in context of Sec. 80P(2)(a)(i), and not on the entitlement of a co-operative society towards deduction under Sec. 80P(2)(d) on the interest income on the investments parked with a co-operative bank. [Para 8]"

9. The appellant further state that, it has already assessed u/s 143(3) of the Act for the A.Y 2015-16 & A.Y. 2016-17; wherein the department has accepted appellant's claim for deduction u/s 80P(2)(d) of the Act towards Interest and Dividend income received from co-operative bank, a co-operative society.

10. In addition to the above, honourable CIT Appeal authority, NFAC has ruled in favour of the appellant for its claim for deduction u/s 80P(2)(d) of the Act for A.Y. 2018-19 vide its order dated 28th July 2022.

Considering the facts of the case, provisions of the Act, various legal pronouncements submitted above and CIT Appeal order in appellant's own case for A.Y. 2018-19; we request your honour to grant the appellant its lawful claim for deduction u/s 80P(2) (d) of the Act of Rs.98,09,093"

#### 6. Decision in Appeal:

6.1 I have considered the facts and circumstances of the case, submission of the appellant and perused the assessment order u/s section 143(3). All the grounds of appeal pertain to the disallowance of exemption of interest earned u/s 80P (2) (d) and are adjudicated together.

6.2 The assessee has placed reliance on the following orders of the jurisdictional and other ITAT's in support of its appeal: 1) Pr. CIT, Hubli Vs. Totagars Co-operative Sale Society [2017] 78 taxmann.co, 169 (Karnataka)/2017]392[ITR 74 (Karnataka HC) 2) CIT vs Haryana State co-operative Housing Society [1998]234 ITR 714 (Punjab & Haryana)/ [1999] 3) Lands End co-op hsg society

ltd. Vs. ITO (Mumbai Tribunal I.T.A. N. 3566/Mum/2014 4) Sea Green co-op hsg society ltd. Vs. ITO(Mumbai Tribunal I.T.A. N. 1343/Mum/2017 5) Kaliandas Udyog Bhavan premises co-op society Vs. ITO [2018] 94 taxmann.com 15(Mumbai - Trib.)

6.3 A later order of Solitaire co-operative housing society v/s Pr. Comm of Income Tax 26 dated 29-11-2109 in ITA 3155/Mum/2019-ITAT Bench G has been perused wherein it has been observed as under:

"8. We shall now advert to the judicial pronouncements that have been relied upon by the Id. A.R. We find that the issue that a co-operative society would be entitled for claim of deduction under Sec. 80P(2)(d) on the interest income derived from its investments held with a co-operative bank is covered in favour of the assessee in the following cases: (1) Lands End co-operative housing society ltd. Vs. ITO (2017) 46 CCH 52 (Mum) (ii) M/s C. Green co-operative housing society ltd. Vs. ITO-21(3)(2), Mumbai (ITA No. 1343/Mum/2017, dated 31.03.2017 (iii) Marvwanjee Cama Park co-operative housing society ltd. Vs. ITO Range-20(2)(2), Mumbai (ITA No. 6139/Mum/2014, dated 27.09.2017."

6.4 Thus the case of the appellant is covered by the decision of the jurisdictional ITAT in the case of Lands End co-operative housing society ltd. Vs. ITO 3566/Mum/2014 and subsequent orders in which it was held that Sec. 80P(2) (d) provides for deduction in respect of income by way of interest and dividend derived by assessee from its investments

with other co-operative society and thus interest income earned by co-operative society from investment in co-operative bank (being a registered co-operative society) shall be allowed as deduction u/s 80 P(2)(d) and no tax shall be charged on such interest income. Further, a housing society is not carrying on any business but is a co-operative society for the common benefits of the housing residents. The AO's interpretation that since only cooperative societies are mentioned in section 80P(2)(d) it precludes cooperative banks is not correct since cooperative banks are a subset of cooperative societies and the legislatures intent to include them is implicit. If only co-operative banks were mentioned in section 80P(2) (d) then it would definitely have kept

cooperative societies out of the ambit of the section which would have been completely against the spirit of section 80P and the cooperative movement. The AO's logic is therefore not acceptable. In the assessment orders for AY 2015-16 and 2016-17 u/s 143(3) the appellant has already been allowed deduction u/s 80P(2)(d). Accordingly, I find that the appellant is eligible for exemption of income amounting to Rs 98,09,093/- from interest and dividend from a co-operative society (which includes co-operative banks registered as a co-operative society). This ground of appeal is allowed.

7. In the result, the appeal is allowed.

Order passed u/s 250 read with section 251 of the Act.

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## सभासद संस्थांना जाहीर आवाहन

दि मुंबई डिस्ट्रिक्ट को-ऑप. हौ फेडरेशन लि. च्या सर्व सभासद संस्थांना आवाहन करण्यात येते की, फेडरेशनकडे पत्रव्यवहार करताना सदर पत्रावर संस्थेने फेडरेशनचा सभासद क्रमांक तसेच संस्थेचे अध्यक्ष/सचिव/खजिनदार यांचे भ्रमणध्वणी (मोबाईल) क्रमांक नमुद करावा, तसेच शक्य असल्यास ईमेल पत्ता दिल्यास सदर पत्रातील मुदयाबाबत दुरध्वनीवरून स्पष्टीकरण घेउन त्यानुसार उत्तर देणे योग्य राहिल म्हणून सर्व सभासद संस्थांनी फेडरेशनशी पत्रव्यवहार करताना संस्थेनी वरील बाबी आपल्या पत्रामध्ये समाविष्ट कराव्यात असे आवाहन करीत आहोत.

## An Appeal to Member Societies

Member Societies are hereby requested to mention their office bearer's mobile numbers and Email addresses and membership number of the Federation while corresponding with the Federation, so that it is easy to communicated in all respect.

## सहकारी गृहनिर्माण संस्था सदस्यांसाठी निवडणूक अधिकारी प्रशिक्षण

महाराष्ट्र शासनाने नवीन निवडणूक नियमांनुसार २५० पेक्षा कमी सभासद असलेल्या सहकारी गृहनिर्माण संस्थांच्या व्यवस्थापक समित्यांच्या निवडणुका घेण्याची संधी आता त्याच संस्थेच्या संचालकांना उपलब्ध करून दिली आहे. यामुळे गृहनिर्माण संस्थांच्या व्यवस्थापक समितीच्या निवडणुकांचे संचालन करण्याची संधी त्या संस्थेच्या सभासदांना उपलब्ध झालेली आहे. तथापि, यासाठी संबंधित सदस्य/ संचालकाने निवडणूक अधिकारी म्हणून नियमानुसार प्रशिक्षण घेणे आवश्यक आहे.

मुंबई डिस्ट्रिक्ट को-ऑप. हाऊसिंग फेडरेशन मार्फत असे प्रशिक्षण जुलै २०२१ पासून ऑनलाइन/ऑफलाइन पद्धतीने देण्यास सुरुवात झाली आहे. या प्रशिक्षण वर्गाचा लाभ मोठ्या संख्येने गृहनिर्माण संस्थांच्या सदस्य/संचालकांनी आजवर घेतला आहे. या प्रशिक्षणासाठी शुल्क प्रतिप्रशिक्षणार्थी ऑनलाइन रु.१,०००/- व ऑफलाइन रु. १,५००/- एवढे निश्चित करण्यात आले आहे. ज्या सदस्य/संचालकांना हे प्रशिक्षण घ्यावयाचे आहे त्यांनी आगाऊ नोंदणी करणे आवश्यक आहे. यासाठी [mumbaihousingfederation.live](http://mumbaihousingfederation.live) या लिंकवर जाऊन नोंदणी करता येईल. या लिंकवर गेल्यानंतर एक फॉर्म उघडेल. त्यात इच्छुकाने आपली माहिती भरावयाची आहे. तसेच प्रशिक्षणाचे शुल्क सुद्धा याच लिंक मार्फत भरायचे आहे. ज्यांना प्रत्यक्ष शुल्क भरायचे आहे त्यांनी फेडरेशनच्या कार्यालयात कार्यालयीन वेळेत येऊन हे शुल्क भरले तरी चालेल. मात्र “प्रथम येणाऱ्यास प्राधान्य” तत्वानुसार प्रवेश मिळेल.

### प्रशिक्षण कार्यक्रमाचे वेळापत्रक

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For queries please contact:

**Shri Ashish J. Goel**

(Hon. Director, Mumbai district co-op housing federation)

9821047155/ mumbaifederationtraining@gmail.com

## खुशखबर खुशखबर खुशखबर...

दि मुंबई डिस्ट्रिक्ट को-ऑपरेटिव्ह हाऊसिंग फेडरेशन लिमिटेड ही संस्था सहकार कायद्यातील तरतुदीनुसार दिनांक २६/०९/२०२५ रोजी च्या शासनाच्या अध्यादेशानुसार अधिसूचित झाले असून नवीन सुधारित अधिनियमातील कलम १५४ व २८ नुसार मुंबई जिल्हा व मुंबई उपनगर जिल्ह्यातील गृहनिर्माण सहकारी संस्थांच्या मॅनेजर तसेच अकाउंटंट यांच्यासाठी कोर्स लवकरच सुरु करण्यात येणार आहेत तरी सभासदांनी या सुवर्णसंधीचा लाभ घ्यावा इच्छुकांनी या कोर्स बाबतच्या माहितीसाठी फेडरेशनच्या खालील दूरध्वनी क्रमांकावर किंवा ईमेलवर संपर्क साधावा.

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## Question & Answer

**प्रश्न क्र. १) वारसदार (Nominee) सभासदांचे कर्तव्य व अधिकार काय आहेत ?**

उत्तर - मूळ सभासद त्याच्या जिवंतपणी वारसदार (Nominee) म्हणून एखाद्या व्यक्तीची नियुक्ती महाराष्ट्र सहकारी संस्था नियम १९६१ च्या नियम २५ नुसार फॉर्म नं. १४ प्रमाणे वारसदार नेमू शकतो. याबाबत संस्थेने वारसदार नोंदवही ठेवणे आवश्यक आहे. तसेच नमुना उपविधी क्र. ३२ ते ३७ नुसार वारसदार नेमणे तसेच मूळ सभासद मयत झाल्यानंतर नेमलेला वारसदार फॉर्म नं. १५ व सोबतचे जोडपत्र जोडून तो वारसदार सभासद होऊ शकतो. सदरच्या वारसदार (Nominee) सभासदाला मूळ सभासदाचे मालकी हक्क असत नाही. म्हणून वारसदार (Nominee) सभासद हा मूळ सभासदाच्या मालकी हक्काच्या सदनिकेचा व भागदाखल्याचा विश्वस्त राहतो. त्याचे मूळ कर्तव्य म्हणजे मयत मूळ सभासदाचे वारसदार यांना संस्थेच्या दफ्तरी त्याची माहिती देणे. तसेच वारसदार (Nominee) सभासद याला सदर सदनिकेचे सेवा शुल्क देणे तसेच सदर वारसदार (Nominee) सभासद सदनिकेत राहू शकतो. परंतु वारसदार (Nominee) सभासदाला मूळ सभासदाची सदनिका विकता येत नाही, भाड्याने देता येत नाही किंवा सदरच्या सदनिकेवरती त्रयस्थ व्यक्तीला मालकी हक्क देता येत नाहीत. तसेच सदरच्या सदनिकेवरती कोणत्याही

प्रकारचा बोजा चढवता येत नाही. तसेच २३ जुलै २०१९ च्या कायद्यातील नवीन सुधारणे नुसार वारसदार (Nominee) सभासद म्हणजे तात्पुरता सभासद अशी व्याख्या केलेली आहे. त्याचे नाव भागदाखल्या वरती त्याच्यासाठी नावाची नोंद होत नाही. त्यासाठी संस्थेने तात्पुरत्या सभासदाची (Provisional Member) वेगळी नोंद वही ठेवणे आवश्यक आहे.

**Q 2) General Guidelines on parking in the premises of the housing society**

Ans 2 - Garage is defined in D.C Rule 1991/2034, whereas various types of parking, such as stilt/open space / closed garage/ parking in basement/ podium or mechanical system and by lift parking. In this regards Policy of allotments and other aspects of parking space etc have been mentioned in the model Byelaws no.78 to 84. Wherein the society has to decide the policy for allotment of parking slots, restrictions and marking of parking slots. Also society has to decide eligibility for allotment of parking slots to the member/ occupants and also decide parking charges and parking of other vehicles in the premises of the society. The society has to consider its availability of various parking space in the premises of

the society and considering the number of flats and the number of vehicles of the members in the society and accordingly the society has to frame general rules and regulation about the parking space in the premises of the society such rules are to be discussed and decided in the General Meeting. Were as Stilt Garages/ closed Garages / Basement parking and podium parking are made available in the premises without consuming any FSI of the plot of land and hence such garage slots are allowed to be sold to any purchaser.

**In this regards the land mark Judgment of the supreme court of India delivered on 31/08/2010 in the matter of M/S Nahalachand Laloo Chans pvt Ltd (Appellant) M/s. panchali Co-operative Housing society Ltd. (Respondent); whereas, the supreme court has considered regarding the sale of parking areas by the builder to the buyer, which falls within the common areas and facilities and as such the builder have no right to sell car parking area as it is not independent Flat/ garage in the premises, which is not defined in MOFA.**

Therefore parking slots premises cannot be sold to any purchaser, if it is sold by executing registered Agreement then the ownership is of the purchaser and if any Garage / Parking space allotted by the builder only by letter correspondence or allotment that cannot be said ownership parking of the alloty. Therefore the parking facility is made available to the residence of the building as per the provisions of the D.C Rules and hence if the members sold the residential flat but such member cannot sale the parking space allotted to him who is availing the parking facility.

Any differences/disputes among the members or with the society about the parking of vehicles in the premises of the society shall be referred before the co-operative court. Therefore to avoid any disputes/differences or any complicated issues about the parking matter it is necessary that the society has to frame the general parking rules as per the availibility of various types of parking space in the premises of the society. The Builder / Society

can make available Mechanical parking system in the premises of the society as decided in its General Meeting.

**Q 3) If the purchaser / member purchased parking area from the builder and if he is paying property tax then such member can pay parking charges or not?**

Ans 3) In this regards the society have not made clear whether such purchaser / member purchased parking space stilt by Register Agreement then it is ownership as per the transfer of property Act. In such case such purchaser / member has to pay BMC assessment tax as charged by the corporation and if such parking slot is not acquired by any register agreement then it cannot be ownership parking it is parking made available to the society as per the provisions of D.C rules & society rules.

Any parking in the premises of the society whether it is ownership or allotted parking then in such case the parking charges is required to be charge to such purchaser / member as may be decided by

the General Body Meeting of the society , irrespective of the fact whether such purchaser / Member actually parks his vehicle or not.

**Q.4) Whether a nominee can give the flat on Leave License Basis without the consent of the Co-owner and having unregistered will?**

Ans 4 – As per the provisions nominee is the trustee of the flat, it is his duty to bring the heirs on record for proper title of the flat of the deceased member. The nominee has to pay the maintenance charges and he can reside in the flat but the nominee cannot sale or cannot create third party rights or cannot create any lien and charge on the said flat and as such the nominee cannot give the flat on Leave License Basis with or without the consent of the Co-owner.

If the nominee is having unregistered will in favor of the nominee then in such case the nominee has to obtain the probate of the appropriate quorum.

**Adv. D. S. Vader.**

Hon. Secretary

The Mumbai District Co-Op Hsg. Federation Ltd.

(9821336411)

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