

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**Before Shri Satbeer Singh Godara, Judicial Member and
Shri Manoj Kumar Aggarwal, Accountant Member**

ITA Nos.652& 653/Coch/2022
(Assessment Years :2018-19& 2019-20)

Thannermukkom Service Co-operative Society Limited, No.A 809, Thannermukkom North, Thannermukkom, Cherthala, Alappuzha, Kerala. PIN 688527	Vs.	The Income Tax Officer, Wd -1 & TDS Alappuzha
PAN -AACAM1602K		
Appellant		Respondent

Appellant by: Shri Kabil Chandran, Adv
Respondent by: Smt. J.M. Jamuna Devi, Sr. D.R.

Date of Hearing: 09.11.2022
Date of Pronouncement: 13.12.2022

ORDER

Per: S.S. Godara, J.M.

These assessee's twin appeals for A.Ys. 2018-19& 2019-20 arise against the National Faceless Appeal Centre (NFAC) Delhi's orders, both dated 27.11.2021, passed in Din & Order No.ITBA/NFAC/S/250/2021-22/1037307680(1) and Din & Order No. ITBA/NFAC/S/250/2021-22/1037306592(1) respectively, involving proceedings under Section 143(1) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties. Case files perused.
3. Learned counsel representing the assessee vehemently argued during the course of hearing that both the lower authorities have erred in law and on facts in declining the assessee's Section 80P deduction claims of Rs.14,54,100/-[followed by raising a demand of Rs.5,80,390/- for the

A.Y. 2018-19] and Rs.35,91,710/- [followed by raising a demand of Rs.15,07,190/- for the A.Y. 2019-20]; respectively on the sole reason that it had not filed its return within the due date under Section 139(1) of the Act.

4. We have given our thoughtful consideration to the vehement rival submissions and see no merit in assessee's stand. We make it clear that the assessee has indeed quoted Section 80AC(ii) of the Act that although it has been prescribed in the relevant statute to claim the impugned deduction only after filing Section 139(1) return before the due date, this tribunal's recent coordinate bench in the case of M/s. Krushi Vibhag Karmchari Vrund Sahakari Path Sanstha vs. ITO in ITA No.182/Nagpur/2019 dated 07.10.2022 has held the foregoing condition(s) as "directory" and not a mandatory one.

5. We find no merit in assessee's foregoing arguments claiming Section 80AC(ii) of the Act as a mere directory provision in the light of Commissioner vs. Dilip Kumar & Company (2018) 9SCC 1 (SC) (FB) that provisions in a taxing statute (including deductions) have to be strictly interpreted only. We next observe that the legislature has interpreted "no such deduction" and "unless" in Section 80AC(ii); for the period after 01.04.2018, by way of negative covenants which forms a mandatory stipulation only in light of PRINCIPLES OF STATUTORY INTERPRETATION by Justice G.P. Singh (termed as the treatise on the subject of statutory constructions) at Pages 446 to 448 under Chapter 5 thereof. So far as the assessee's reliance on this tribunal's learned coordinate bench's decision (supra) is concerned, the same hardly forms a binding precedent once dealing with assessment year 2009-10 only i.e., before 01.04.2018. We thus uphold the learned lower authorities action under challenge therefore denying sec.80P deduction in issue. Rejected accordingly.

6. This assessee's twin appeals are dismissed in above terms.

Dictated and pronounced in the open Court on 13th December, 2022.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin, Dated: 13th December, 2022

Copy to:

1. The Appellant
2. The Respondent
3. The CIT(A) -NFA
4. The CIT-
5. The DR, ITAT, Cochin
6. Guard File

By Order

//True Copy//

Assistant Registrar
ITAT, Cochin

n.p.