

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

**Before Shri Inturi Rama Rao, Accountant Member  
&  
Shri Prakash Chand Yadav, Judicial Member**

ITA No.583/Coch/2024 : Asst.Year 2023-2024  
&  
SA No.180/Coch/2024

The Pavaratty Service Co-operative Bank Limited No.3918 14/362, Pavaratty Kerala - 680 507. <b>PAN : AADAT2483J</b>	v.	The Income Tax Officer Ward 1 & TPS Guruvayur.
(Appellant)		(Respondent)

Appellant by :Sri.Ramdas, CA  
Respondent by :Smt.Leena Lal, Senior AR

<b>Date of Hearing : 20.11.2024</b>	<b>Date of Pronouncement : 09.12.2024</b>
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**ORDER**

**Per Prakash Chand Yadav, JM :**

The present appeal of the assessee along with stay application are arising from the order of the learned Commissioner of Income-tax (Appeals) dated 22<sup>nd</sup> April, 2024 and relates to the assessment year 2023-2024.

2. The short issue involved in this appeal is that the Assessing Officer (AO), i.e., the CPC, Bangalore, has not allowed the deduction of section 80P of the Act to the assessee on the ground that the assessee failed to file the income-tax return within the due date. Thereafter, the assessee has filed an application u/s.119(2)(b) before the CBDT praying for

condonation of delay in filing the return of income. The same is pending with the CBDT till date. However, the learned jurisdictional AO without appreciating the outcome of the petition filed before the CBDT, disallowed the deduction and passed the order on 19<sup>th</sup> February, 2024.

3. Aggrieved with the order of the AO, the assessee preferred an appeal before the learned CIT(A) and craved for the deduction of sec.80P of the Act. However, the ld.CIT(A) relying on the decision of Mumbai Bench of the Tribunal in ITA No.944/Mum/2022 dated 31<sup>st</sup> October, 2022 in the case of Janki Vaishali Co-operative Housing Society Limited v. CIT(A), dismissed the appeal of the assessee.

4. Now the assessee has come up in appeal before us. The learned AR assailed the order of the CIT(A) and contended that deduction u/s.80P may kindly be allowed.

5. The learned Departmental Representative relied upon the orders of the authorities below.

6. After considering the rival submissions, the bench has put up a question before the AR as to whether the CBDT has decided the petition of the assessee, to which the AR of the assessee pointed out that the same is pending before the CBDT till date. Therefore, having regard to the fact that the ITAT has no power to condone the delay for accepting belated return, which power squarely is in the domain of the CBDT, and hence, it cannot be possible to condone the delay. The appeal

of the assessee is dismissed with a rider that in case there has been denied any relief by the CBDT, then the assessee is free to take further action in accordance with law.

7. Since we have disposed of the appeal, the corresponding stay becomes infructuous, and accordingly, the same is dismissed.

8. In the result, the appeal as well as the stay application filed by the assessee are dismissed.

Order pronounced on this 09<sup>th</sup> day of December, 2024.

**Sd/-**  
**(Inturi Rama Rao)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Prakash Chand Yadav)**  
**JUDICIAL MEMBER**

Cochin; Dated : 09<sup>th</sup> December, 2024.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin