

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC-‘B’ BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

<b>ITA No. 1703/Bang/2024</b>
<b>Assessment Year : 2017-18</b>

Sri Rameshwara Bahu Uddeshi Souharda Sahakari Sangha Niyamitha, Car Street, Thithahalli, Shimoga – 577 432. <b>PAN: AABAS9949N</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 5, Shimoga.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Smt. Pratibha R, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dept.

Date of Hearing	:	07-10-2024
Date of Pronouncement	:	06-01-2025

**ORDER**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER**

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 10/07/2024 in respect of the A.Y. 2017-18 on the following grounds of appeal:

	<b>GROUND OF APPEAL</b>	<b>Tax Effect relating to each Ground of appeal</b>
1.	<i>The CIT (A) erred in passing the order in the manner he did</i>	<i>General</i>

2.	<p><i>The Id. CIT(A) ought to have appreciated that the appellant is Souharda society and is entitled for the exemption under section 80P(2)(a)(i) of the Act since the Appellant society is providing credit facilities to its members only and the society was not carrying on business of banking.</i></p>	-----
3.	<p><i>The Id. CIT(A) ought to have appreciated that there was genuine reason for the delay in filing the appeal and CIT(A) ought to have considered the same and heard the matter on merits.</i></p>	-----
4.	<p><i>The Id. CIT(A) erred in not condoning the delay in filing appeal by the Appellant. The Ld. CIT(A) ought to have appreciated the fact that the CEO of the Appellant society which was seeing legal proceedings was unable to Attend the work since his mother was seriously ill and aged above 70 years, she was attending her mother and subsequently her mother was passed away. The Id. CIT(A) would have given one more opportunity to explain the reason for the delay and to file the Medical Certificate to support the Same death certificate to support the same</i></p>	-----
5.	<p><i>The Id. CIT(A) erred in not condoning the delay of 17 days in filing the appeal, the CIT(A) ought to have further appreciated that there was a reasonable cause to condone the delay. Thus, the matter has to be heard on merits</i></p>	-----
6.	<p><i>On the facts, the learned assessing officer ought to have accepted the explanation offered by the appellant and allowed the exemption to the appellant- society as claimed in the return.</i></p>	-----

7.	<i>On the facts, the learned assessing officer ought to have appreciated that the judgments relied on by the appellant were squarely applicable to the case of the appellant and the judgments distinguished by him were not applicable to the case of the appellant.</i>	-----
8.	<i>Without prejudice the disallowances as confirmed by the learned CIT (A) are arbitrary charging the interest under sec 234 of the Act.</i>	<i>General</i>
10.	<i>For these and such other grounds that may be urged at the time of hearing the Appellant prays that the appeal may be allowed.</i>	<i>General</i>
	<b>TOTAL TAX EFFECT</b>	<b>Rs.8,02,213/-</b>

**2.** The brief facts of the case are that the assessee is a co-operative society and claimed deduction u/s. 80P of the Act. Thereafter, the case was selected for scrutiny under CASS and notices were issued calling for the details. The assessee also filed the details and thereafter the AO was of the view that the deduction u/s. 80P could not be granted for the reason that the assessee is not a co-operative society.

**3.** The assessee challenged the said order before the Ld.CIT(A) with a delay of 17 days. The assessee also filed an explanation for the above said delay and prayed to condone the said delay and prayed to decide the appeal on merits. The Ld.CIT(A) had considered the explanation offered by the assessee but not convinced with the same and therefore he has not condoned the said delay and dismissed the appeal filed by the assessee. As against the said order, the assessee is in appeal before this Tribunal.

**4.** At the time of argument, the Ld.AR submitted that the reason stated by the assessee in the delay condonation application is genuine reason and therefore prayed to condone the delay and remit the issue to the file of the

Ld.CIT(A) for deciding the issue afresh on merits. The Ld.AR further submitted that the finding of the AO that the assessee is not a co-operative society as contemplated u/s. 2(19) of the Act since the assessee is not registered under the Karnataka State Co-operative Societies Act. The said finding of the AO is also not correct in view of the order passed by the Coordinate Bench in case of Yadagere Souharda Co-operative Society Ltd. vs. ITO in ITA No. 444/Bang/2024 dated 24.06.2024 in which the Coordinate Bench of this Tribunal had relied on the other orders of the Tribunal as well as the order of the Hon'ble Jurisdictional High Court and prayed to allow the appeal itself.

The Ld.DR relied on the order of the lower authorities and prayed to dismiss the appeal.

**5.** We have heard the arguments of both sides and perused the materials available on record.

**6.** We have perused the reason stated by the assessee in the delay condonation application which reads as follows:

*“Due to Death ceremonial Function of CEOs Mother she was not attend the Duties and the person received the notice somewhere else and forgotten on call from the Income Tax department the order was searched and located. hence the delay in filling the appeal be Condoned and admit the appeal in the interest of natural justice.”*

**7.** It appeared that the delay is only a minimal delay of 17 days and the reasons adduced by the assessee also seems to be a reasonable one. Further, the issue to be decided on merits is not adjudicated by the Ld.CIT(A) in view of the delay has not been condoned. In order to render substantial justice, we deem it fit to set aside the order of the Ld.CIT(A) by condoning the said delay of 17 days in filing the appeal before the Ld.CIT(A) and remit the issue to the file of the Ld.CIT(A) for deciding the issue afresh on merits and in accordance with law. We also make it clear that the view taken by the AO by terming the assessee as not a co-operative society is not correct in view of the above said order cited (supra) and therefore the

Ld.CIT(A) may consider the claim of deduction u/s. 80P as if the assessee is also a co-operative society under the provisions of the Act.

**8.** In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 06<sup>th</sup> January, 2025.

Sd/-  
(LAXMI PRASAD SAHU)  
Accountant Member

Sd/-  
(SOUNDARARAJAN K.)  
Judicial Member

Bangalore,  
Dated, the 06<sup>th</sup> January, 2025.  
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore