

आयकर अपीलीय अधिकरण  
कोलकाता 'एसएमसी' पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA**

श्री संजय शर्मा, न्यायिक सदस्य  
एवं  
श्री रकेश मिश्रा, लेखा सदस्य  
के समक्ष  
**Before**

**SRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 1981/KOL/2024  
Assessment Year: 2018-19**

Tajpur S.K.U.S Ltd.	Vs.	DCIT, CPC, Bengaluru
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AAFAT3464R</b>		

**Appearances:**

**Assessee represented by** : Giridhar Dhelia, AR and  
Praniti Poddar, Adv.

**Department represented by** : S.B. Chakraborty, Addl. CIT, Sr. DR  
and Somnath Das Biswas, Sr. DR.

Date of concluding the hearing : December 18<sup>th</sup>, 2024

Date of pronouncing the order : January 13<sup>th</sup>, 2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as "the Ld. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2018-19 dated 31.07.2024, which has been passed against the assessment order u/s 143(1) of the Act, dated 09.08.2019.



2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*“1) For that the intimation passed under section 143(1) as well as rectification order u/s 154 was issued in violation of provisions 143(1)(a)(v) of Income Tax Act, 1961 for the time being in force and as applicable for the Asst, year 2018-19 and hence the said intimation as issued is illegal and bad in law.*

*2) For that the learned CIT (Appeals) erred in confirming the disallowance of deduction of ₹7,70,505/- claimed under section 80P of the Act which is not justified and thus the same be reversed.*

*3) For that the learned CIT (Appeals) erred in dismissing the appeal on merits without following the provisions of law under section 143(1)(a)(v) of the Act as applicable for Asst. Year 2018-19. Thus, order of the CIT (Appeals) be reversed.*

*4) For that the learned CIT (Appeals) erred in confirming the interest u/s 234 A/B/C the same was unjustified and hence the same be deleted.*

*5) For that the appellant craves leave to produce additional evidences in terms of Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963.*

*6) For that the appellant craves leave to press new, additional grounds of appeal or modify, withdraw any of the above grounds at the time of hearing of the appeal.”*

3. Aggrieved with the order of the Assessing Officer (hereinafter referred to as ld. 'AO'), the assessee has filed appeal before the Ld. CIT(A) who has dismissed the appeal of the assessee after observing as follows:

*“4. Adjudication; The due date for filing return of income was 31.08.2018 for AY 2018-19. The appellant stated that the society filed return on 15.12.2018 after a delay of 106 days. The High Court of Kerala has held in the case of Nileshtar Range kalluChethu VyavasayaThozhilall Sahakarana Sangham [2023] 152 taxmann.com 347 (Kerala) that, Assessing Officer made disallowance under section 80P(2)(a)(vi) since assessee's returns were filed much beyond date for filing prescribed under section 139 and even under section 148. On reading sections 80A(5) and 80AC as they stood prior to 1-4-2018, it was noted that statutory scheme under Act was to admit only such claims for deduction under section 80P as were made by assessee in return of income filed by him. However, after 1-4-2018, even if assessee made his claim for deduction under section 80P in a return filed within time*

*under section 139(4), 142(1) or 148, he would not be allowed deduction unless returns so filed was within due date prescribed under section 139(1). Since assessee had filed its return of income after dates prescribed under section 139(1), returns were indeed non-est and could not be acted upon by Assessing Officer even if they were filed before completion of assessment. Since assessee failed to fulfil pre-condition prescribed under section 80P, it was not entitled to benefit of exemption under section 80P(2)(a)(vi). As per this decision, it is clear that the claim for deduction under section 80P can be made by an assessee only in a return filed within the time prescribed for filing such returns. The statutory scheme permits the allowance of a deduction under section 80P only if it is made in a return filed within the time prescribed under section 139(1). Hence, the CPC was correct to deny deduction u/s 80P to the appellant. As a result, the appeal is dismissed.”*

4. The Ld. AR relied upon the decision of the Coordinate Bench in the case of *Jhaupathara Samabay Krishi Unnyan Samiti Limited vs. ADIT* in ITA No. 146/KOL/2023 for AY 2019-20. The relevant portions from the same are extracted as under:

*“3. We, however, notice that the processing of the income-tax return under section 143(1)(a) of the Act can be carried out after making certain adjustments. The impugned disallowance has been made under clause 143(1)(a)(v), which provides for the disallowance of deduction claimed under section 10(AA) or under any other provisions of Chapter (6A) under the heading “C” - deduction in respect of certain income”, if the return is furnished beyond the due date specified under sub-section (1) of section 139.*

*4. We notice that an amendment was brought in Finance Act, 2021 w.e.f. 01.04.2021 in section 143(1)(a)(v) by virtue of which in place of section “10AA, 80IA, 80IAB, 80IB, 80IC, 80ID or section 80IC” has been replaced by the words Section 10AA or under any of the provisions of Chapter VIA under the heading “C”- deduction in respect of certain income”. It transpires that prior to 01.04.2021, there was no mechanism with the CPC under section 143(1)(a)(v) of the Act for making prima facie adjustment towards disallowance of deduction claimed under section 80P of the Act, if the return is furnished beyond the due date specified under section 139(1) of the Act.*

*5. Under these given facts and circumstances, since the year under appeal for A.Y. 2019-20 and the amendment has been brought into force under section 143(1)(a)(v) of the Act from 01.04.2021, even though the assessee has filed belated return, the disallowance under section 80P of the Act cannot be made as a prima facie adjustment under section 143(1)(a) of the*



Act and for making any such disallowance, the case of the assessee was required to be selected for scrutiny and then, the procedure need to be adopted in accordance with law. With the above observation, we set aside the finding of the ld. CIT(Appeals) and delete the disallowance of deduction under section 80P of the Act at Rs.6,03,194/-.”

4.1. The assessee has cited the following case laws in support of his argument:

<b>Sl. No.</b>	<b>Citation</b>	<b>ITA No.</b>	<b>Date of Pronouncement</b>	<b>Asst. Year</b>
1	<i>Shree Navavaghniya Seva Sahkari Mandali Ltd. Vs. The DCIT/ACIT (CPC) CPC, Bengaluru</i>	ITA No. 13/RJT/2022	03/03/2023	2019-20
2	<i>Aliudepur Seva Sahakari Mandali Ltd. vs. The ADIT, (CPC), Bengaluru, Bengaluru</i>	ITA Nos.269, 276 & 277/RJT/2022	24/02/2023	2019-20
3	<i>Ambaradi Seva Sahkari Mandali vs The DCIT(CPC), Bengaluru</i>	ITA Nos.186, 197, 204 & 203/RJT/2022	10/02/2023	2019-20
4	<i>Sri Kodandaramaswamy Primary Agricultural Co-operative Society Limited, Vs Income Tax Officer, Ward-2, Nellore</i>	ITA No. 673/HYD/2022	09/01/2023	2018-19
5	<i>Shri Nava Ujala Seva Sahakari vs The Dcit/Acit(CPC), Bangalore</i>	ITA No. 20/RJT/2022	31/10/2022	2019-20
6	<i>Shri Trambakpur Sahakari Mandali vs The Dcit/Acit (CPC), Bangalore</i>	ITA No. 23/RJT/2022	31/10/2022	2019-20
7	<i>Dhar Deva Sahakari Mandali Ltd., vs The DCIT (CPC), Bangalore</i>	ITA No. 33/RJT/2022	31/10/2022	2019-20
8	<i>Medi Seva Sahakari Mandali Ltd. vs The DCIT (CPC), Bangalore</i>	ITA No. 38/RJT/2022	31/10/2022	2019-20
9	<i>The Lanjani Co-operative Agricultural Service Society Ltd., Vs. The DCIT, CPC, Bengaluru</i>	ITA No. 332 to 338 /CHD/2021	30/08/2022	2018-19 & 2019-20

5. There is merit in the contention of the Ld. AR that since the amendment in Section 143(1)(a)(v) of the Act has been brought into statute with effect from 01.04.2021 by the Finance Act, 2021 whereby the deduction u/s 80P of the Act are also covered which were not



covered earlier, therefore, the same is applicable for AY 2021-22 onwards and since there was no specific mention of Section 80P of the Act in the pre-amended provisions, therefore, the disallowance u/s 80P of the Act could be made u/s 143(1) of the Act only with effect from AY 2021-22 onwards, which view is also held by the co-ordinate bench in the case of *Jhaupathara Samabay Krishi Unnyan Samiti Limited* (supra). Hence, the order of the Ld. CIT(A) is set aside and ground nos. 2 & 3 are allowed.

6. Since an error of law is also mistake apparent from record, therefore, the Assessing Officer (hereinafter referred to as ld. 'AO') ought to have rectified the intimation u/s 143(1) of the Act when the error was brought to his notice and the Ld. CIT(A) ought to have allowed the appeal of the assessee. Hence, ground no. 1 is also allowed as the amendment was effected from AY 2021-22 and not with effect from AY 2018-19.

7. Ground no. 4 is consequential in nature while ground nos. 5 & 6 being general in nature do not require any separate adjudication.

8. In the result, the appeal filed by the assessee is allowed.

**Order pronounced in the open Court on 13<sup>th</sup> January, 2025.**

Sd/-

**[Sonjoy Sarma]**  
Judicial Member

Sd/-

**[Rakesh Mishra]**  
Accountant Member

Dated: 13.01.2025

*Bidhan (P.S.)*



*Copy of the order forwarded to:*

1. **Tajpur S.K.U.S Ltd., Tajpur, Rajarampur, Mahishadal, Purba Medinipur, West Bengal, 721628.**
2. **DCIT, CPC, Bengaluru.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata