

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, KOLKATA

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.269/Ran/2023
Assessment Year: 2019-20**

Telmocho Agriculture Cooperative Ltd.	Primary Credit		ITO, Ward-2(4), Dhanbad.
Post Talmuchu, Dhanbad, Jharkhand-828305. (PAN: AAEAT0852A)	Ramnagargarh Mahuda S.O.	Vs	
(Appellant)			(Respondent)

Present for:

Appellant by : Shri M. K. Chowdhury, AR
Respondent by : Shri Khubchand T. Pandya, DR

Date of Hearing : 19.03.2025
Date of Pronouncement : 19.03.2025

ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Addl/JCIT(A)-3, Bengaluru [hereinafter referred to as “the Ld. CIT(A)”] dated 10.11.2023 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2019-20.

2. Shri M. K. Chowdhury, Advocate appeared on behalf of the assessee and Shri Khubchand T. Pandya, DR appeared on behalf of the revenue.

3. The assessee is a primary agriculture credit cooperative society. The assessee had claimed deduction of Rs.13,72,058/- u/s 80P(2) of the Act on

interest income earned from credit provided to members. However, the Assessing Officer denied the said claim of deduction u/s 80P in an intimation order passed u/s 143(1) of the Act dated 13.11.2020 on account of delayed filing of return of income. Later on, the ld. CIT(A) has confirmed the order of the Assessing Officer.

4. It was submitted by the Ld. AR that Ld. CIT(A) erred in not deleting the disallowance u/s 80P of the Act and urged before the Bench to reverse the action of the Ld. CIT(A).

5. Per contra, the Ld. Sr. DR vehemently supported the orders of the authorities below and submitted that the issue can be restored to the file of the Assessing Officer for further verification.

6. We have considered the rival submissions. Obviously, the appeal is against the order passed u/s. 143(1). Consequently, the issues cannot be sent back to the Assessing Officer for verification in so far as the verification can be done in an order u/s. 143(3) of the Act only. Further, a perusal of the intimation issued u/s. 143(1) dated 13.11.2020 shows that no show cause notice has been issued to the assessee as per the requirement of the 1st proviso to section 143 of the Act. This having not been done, we are of the view that the intimation issued u/s. 143(1) is unsustainable and consequently, the adjustment made u/s. 143(1) of the Act is deleted.

7. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court 19th March 2025.

Sd/-
(Ratnesh Nandan Sahay)
Accountant Member

Sd/-
(George Mathan)
Judicial Member

Dated: 19.03.2025

RS

Copy to:

1. The Appellant:
2. The Respondent.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata.
6. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata