

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

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 963/Coch/2024
Assessment Year: 2022-23**

Kerala University Staff Housing Appellant
Co-opertive Society Ltd.
University Campus Senat House
Palayam, Thiruvananthapuram 695033
[PAN: AAJAK0089P]

vs.

The Income Tax Officer Respondent
Ward - 2(1), Thiruvananthapuram

Appellant by: Shri Abraham J. Markos, Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 12.03.2025
Date of Pronouncement: 27.03.2025

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 30.09.2024 for Assessment Year (AY) 2022-23.

2. Brief facts of the case are that the appellant is a co-operative society registered under the Kerala State Co-operative Societies Act, 1969. The return of income for AY 2022-23 was not filed under the provisions of section 139(1) of the Act, but the appellant had filed the return of income u/s. 139(4) of the Act on 30.12.2022 declaring Nil income after claiming deduction u/s. 80P of the Act. Against the said

return of income, the assessment was completed by the Income Tax Officer-Ward-2(1), Thiruvananthapuram (hereinafter called "the AO") u/s. 143(3) r.w.s. 144B of the Act vide order dated 20.02.2024 disallowing the deduction calmed placing reliance on the provisions of section 80AC of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO placing reliance on the decision of the Hon'ble Jurisdictional High Court in the case of Nileshtar Range Kallu Chethu Vyavasaya Thozihilali Sahararana Sangham [2023] 459 ITR 730 (Ker).

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. When the matter was called on, the learned counsel for the assessee submits that the delay in filing the appeal was condoned by the learned Pr. Commissioner of Income Tax, Thiruvananthapuram (PCIT) under the powers vested with him u/s. 119(2)(b) of the Act vide proceedings dated 25.09.2024 and, therefore, the appellant is eligible for deduction u/s. 80P of the Act.

6. On the other hand, the learned Sr. DR has not opposed the above submissions.

7. Having perused the material on record, I am of the considered opinion that the matter requires remand to the file of the AO to decide the issue in appeal based on the outcome of the application filed before the PCIT seeking condonation of delay in filing the appeal.

8. In the result, the appeal filed by the assessee stands partly allowed.
9. Order pronounced in the open court on 27th March, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th March, 2025

n.p.

Copy to:

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

Assistant Registrar
ITAT, Cochin

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	24.03.2025		Sr. PS/PS
2	Draft placed before author	25.03.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement			Sr. PS/PS
7	File sent to Bench Clerk			Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			