

आयकर अपीलियअधिकरण, विशाखापटणम पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM "DIVN" BENCH, VISAKHAPATNAM

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष

BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER
&
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ I.T.A. No.122/Viz/2025
(निर्धारण वर्ष / Assessment Year : 2018-19)

Sagara Vikasa Mutually Aided
Coop Thrift Society Ltd,
Visakhapatnam.

PAN: AACAS9620H

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Assessee by
प्रत्यार्थी की ओर से / Revenue by

Vs. Income Tax Officer,
Ward-2(5),
Visakhapatnam.

(प्रत्यर्थी/ Respondent)

Smt A Aruna for Shri GVN Hari
Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing : 07/04/2025

घोषणा की तारीख/Date of
Pronouncement : 08/04/2025

O R D E R

PER SHRI V. DURGA RAO, JM:

This appeal filed by the assessee is against the order of the Learned Addl. / JCIT (A)-1, Chandigarh ("Ld. CIT(A)") in ITBA/APL/S/250/2024-25/1071614159(1), dated 27/12/2024 arising out of the order passed U/s. 143(1) of the Income Tax Act, 1961 ("the Act") for the AY 2018-19.

2. Brief facts of the case are that the assessee is a cooperative society engaged in providing thrift and credit facilities to its members. The assessee filed its return of income for the AY 2018-19 on 25/02/2019 admitting a total income of Rs. NIL. In the return of income, the assessee claimed the entire income of Rs. 13,04,996/- as deduction U/s. 80P of the Act. Thereafter, the return was processed and Intimation U/s. 143(1) of the Act was issued on 25/06/2019 in the case of the assessee. In the Intimation passed U/s. 143(1) of the Act, the assessee's claim of deduction of income was disallowed and the total income was determined at Rs. 13,05,000/- and accordingly a demand of Rs. 5,18,382/- was raised which includes the interest U/s. 234A, 234B and 234C of the Act. Further, a fee of Rs. 10,000/- was also charged U/s. 234F of the Act. It was stated in the Intimation that the deduction claimed by the assessee U/s. 80P of the Act was disallowed because the return was not filed within the due date as prescribed U/s. 139(1) of the Act. Aggrieved by the Intimation passed U/s. 143(1) of the Act, dated 25/06/2019, the assessee preferred an appeal before the Ld. CIT(A), NFAC. The Ld. CIT(A)-NFAC vide order dated 06/10/2022 dismissed the appeal of the assessee. On further appeal to ITAT, Visakhapatnam, the Hon'ble Tribunal vide its order dated 29/03/2023 in ITA No. 235/Viz/2022 had remitted the matter back to the file of the Ld. CIT(A) with a direction to

re-examine the case on merits. The Ld. CIT(A) complying the directions of the ITAT called for certain information from the assessee. After considering the submissions of the assessee, the Ld. CIT(A) dismissed the appeal of the assessee by holding that the assessee has not furnished any explanation as to how its receipts are exempt from tax on principle of mutuality. Aggrieved by the order of the Ld. CIT(A), the assessee preferred an appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) ought to have held that the disallowance of deduction claimed by the appellant U/s. 80P of the Act is outside the scope of intimation U/s. 143(1) of the Act.*
3. *Without prejudice to the above, the Ld. CIT(A) is not justified in upholding the addition of Rs. 13,04,996/- made by disallowing the deduction claimed by the appellant U/s. 80P(2)(a) of the Act.*
4. *The Ld. CIT(A) ought to have held that the income of the appellant is also eligible for exemption under principle of mutuality.*
5. *Any other ground that may be urged at the time of appeal hearing.”*

3. At the outset, the Learned Authorized Representative (“Ld. AR”) submitted that the assessee’s claim of deduction U/s. 80P of the Act was denied by Ld. AO on the ground that there is a delay in filing the return of income and the assessee preferred an appeal before the Ld. CIT(A). In the meantime, the assessee also filed an application before the Ld. Chief

Commissioner of Income Tax, Hyderabad (“Ld. CCIT, Hyderabad”) seeking condonation of delay in filing ITR for the AY 2018-19 U/s. 119(2)(b) of the Act and the Ld. CCIT, Hyderabad vide order dated 12/03/2025 accepted the assessee’s submissions and condoned the delay. Therefore, the Ld. AR pleaded that the matter may be remitted back to the file of the Ld. AO to decide the assessee’s claim of deduction U/s. 80P of the Act afresh in the interest of justice.

4. On the other hand, the Learned Departmental Representative (“Ld. DR”) relied on the orders of the Ld. Revenue Authorities. However, she did not controvert the decision of the Ld. CCIT, Hyderabad while condoning the delay in filing the ITR.

5. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is an undisputed fact that in the ITR filed for the AY 2018-19, the assessee has claimed deduction U/s. 80P of the Act and the Ld. AO, in the Intimation passed U/s. 143(1) of the Act, disallowed the assessee’s claim on the ground that the assessee has not filed its return of income within the prescribed time limit as prescribed U/s. 139(1) of the Act. On appeal, the Ld. CIT(A) has also upheld the decision of the Ld. AO. Subsequently, based on the assessee’s application for condonation of delay U/s.

119(2)(b) of the Act, the Ld. CCIT, Hyderabad has condoned the delay in filing ITR for the AY 2018-19 vide order dated 12/03/2025 in DIN & Order No. ITBA/COM/F/17/2024-25/1074418859(1). The relevant Para-3 of the Ld. CCIT, Hyderabad is culled out as under for reference:

“3. Considering the facts and circumstances of the case, the assessee’s request for condonation of delay in filing ITR for AY 2018-19 is justified. After carefully considering the submission of the assessee and in view of the CBDT’s Circular No. 13/2023 dated 26/07/2023, the assessee, M/s. Sagara Vikasa Mutually Aided Coop Thrift Society Ltd (AACAS9620H), request for condonation of delay for return of income claiming the deduction U/s. 80P for AY 2018-19 is hereby accepted and the same is condoned for the purpose of claiming non-debatable deduction U/s. 80P only.”

6. On a perusal of the above facts and circumstances of the case, we are of the considered view that since the Ld. CCIT, Hyderabad has condoned the delay in filing the ITR for the AY 2018-19 in the case of the assessee, which was the main reason for rejection of the assessee’s claim for deduction U/s. 80P of the Act, the matter requires to be remitted back to the file of the Ld. AO for fresh adjudication. Accordingly, we hereby set-aside the order of the Ld. CIT(A) and remit the matter back to the file of the Ld. AO with a direction to decide the issue of assessee’s claim for deduction U/s. 80P of the Act afresh in accordance with law after affording a reasonable opportunity of being heard to the assessee as

per the principles of natural justice. Thus, all the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open Court on 08th April, 2025.

Sd/- (S. BALAKRISHNAN)	Sd/- (V. DURGA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER	न्यायिकसदस्य/JUDICIAL MEMBER

Dated :08/04/2025

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Sagara Vikasa Mutually Aided Coop Thrift Society Ltd, Plot No. 69, C/o. Vikasa, Vuda Layout, Bank Colony, Bheemunipatnam, Visakhapatnam, Andhra Pradesh-531163.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2(5), O/o. ITO, Infinity Towers, Sankaramatam Road, Visakhapatnam, Andhra Pradesh – 530016.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam