

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM "DIVN" BENCH, VISAKHAPATNAM  
श्रीविजयपालराव, उपाध्यक्षएवंश्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष

BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT  
&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**(Through Hybrid Hearing)**

आयकरअपीलसं./ I.T.A. No.157/Viz/2024

(निर्धारणवर्ष/ Assessment Year: 2017-18)

Bapulapadu Sri Rama Hanuman Primary Agricultural Coop. Society, Bapulapadu. PAN: AADAB3431C (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer, Gudiwada.
अपीलार्थीकीओरसे/ Assessee by	:	No Representation
प्रत्यार्थीकीओरसे/ Revenue by	:	Dr. Aparna Villuri, Sr. AR
सुनवाईकीतारीख/ Date of Hearing	:	21/04/2025
घोषणाकीतारीख/Date of Pronouncement	:	28/04/2025

ORDER

PER S. BALAKRISHNAN, AM:

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1062131385(1), dated 06/03/2024 for the AY 2017-18 arising out of

the order passed U/s. 144 of the Income Tax Act, 1961 ("the Act"), dated 21/12/2019.

2. Brief facts of the case are that based on the information available with the Department it was noticed that the assessee has deposited cash of Rs. 13,10,000/- into the Bank account No.61722650000621 held with Krishna District Central Cooperative Bank during the demonetization period. The assessee has not filed its return of income U/s. 139(1) of the Act. Thereafter, notice U/s. 142(1) of the Act calling for the return of income was issued on 09/03/2018. However, the assessee has not complied with the notice and has not filed the return of income even by 31/03/2018. Subsequently, a show cause notice dated 11/06/2019 was issued and served on the assessee. In response to the notice, the assessee furnished information regarding the Trading Account, P & L Account, Income & Expenditure Account and Balance sheet as on 31/03/2017 without filing any return of income for the AY 2017-18. Again, another show cause notice was issued on 29/11/2019 and in response to the show cause notice, the assessee filed the return of income admitting NIL Income. The Ld. AO observed that the assessee filed the return of income belatedly beyond the due date of filing the return of income in response to the notice issued U/s. 142(1) of the Act which stood 31/03/2018 and therefore, the Ld. AO considered the return

of income as invalid and non-est. The Ld. AO therefore, proceeded to tax the entire profit of Rs. 58,25,378/- which was claimed as deduction U/s. 80P of the Act by the assessee while filing the return of income belatedly. On being aggrieved by the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee made the similar submissions. The Ld. CIT(A), relying on certain judicial pronouncements, dismissed the appeal of the assessee. On being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us by raising various grounds of appeal.

3. The only issue emanating from the grounds raised by the assessee is with respect to disallowance of deduction claimed by the assessee U/s. 80P of the Act.

4. At the time of hearing, there was no representation on behalf of the assessee. The Ld. Departmental Representative ("Ld. DR") fully relied on the orders of the Ld. Revenue Authorities.

5. We have heard the Ld. DR and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is an admitted fact that the assessee has failed to file the return of income U/s. 139(1) of the Act. Further, in response to notice U/s. 142(1) of the Act, issued on 09/03/2018 wherein the assessee was asked to file the

return of income on or before 31/03/2018, belatedly filed the return of income on 04/12/2019 by claiming deduction U/s. 80P of the Act amounting to Rs. 58,25,378/-. The Ld. AO while invoking the provisions of section 80A(5) and 80AC of the Act observed that the assessee has not filed the return of income on or before the due date of filing the return of income U/s. 139(1) of the Act and therefore disallowed the deduction claimed by the assessee. The Ld. AO arrived at this conclusion by treating the return of income as invalid and non-est. Section 80A(5) and Section 80AC of the Act are reproduced herein below for reference:

*“80A(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder.*

On a plain reading of section 80A(5) of the Act, it is clear that the assessee should make a claim in the return of income for claiming deduction under “Certain income under the Chapter heading "C". However, the section does not specify that whether the deduction is allowable if the return of income is filed belatedly. The only condition is that the assessee should make a claim while filing the return of income. In the case on hand the assessee has made a claim for deduction u/s 80P while filing the return of income on 04.12.2019, in response to notice u/s 142(1) of the Act.

**80AC.** *Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—*

*(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;*

***(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",***

*no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139."*

6. Similarly, from the AY 2018-19 section 80AC(ii) was introduced to allow the deduction under certain income under Chapter heading "C-Deductions in respect of certain incomes", unless the return of income for such assessment year has been filed on or before the due date specified U/s. 139(1) of the Act. This condition was not applicable for the AY 2017-18. In the instant case, the assessee filed the return of income for AY 2017-18, belatedly on 4/12/2019 during the course of assessment proceedings. Further, the amendment to section 80AC was considered prospective by various judicial pronouncements. It can be observed from the provisions of section 80A(5) of the Act, which can be made applicable to the instant case, only when the return of income is filed by an assessee and deduction under Chapter-VIA of the Act is not claimed while filing the return of income. The provisions of section 80AC of the Act contemplate denial of deduction of certain provisions of Chapter-VIA of the Act if the return of income is not filed by the assessee

on or before the due date specified under sub-section (1) of section 139 of the Act. These provisions, introduced from the AY 2018-19 in our considered view, is prospective and hence do not apply to the deduction U/s80P of the Act in the instant case for the impugned assessment year. Therefore, we are of the considered view that the Revenue is not justified in not entertaining the deduction U/s 80P of the Act made by the assessee while filing the return of income on 4/12/2019. Accordingly, we direct the Assessing Officer to consider the claim of the assessee u/s 80P as made in the return of income filed on 4/12/2019. Hence, this issue is set aside to the record of the Assessing Officer for examination of the claim of deduction u/s 80P on merits.

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

Pronounced in the open Court on 28<sup>th</sup> April, 2025.

Sd/-  
(VIJAY PAL RAO)  
उपाध्यक्ष/VICE PRESIDENT

Sd/-  
(S. BALAKRISHNAN)  
लेखासदस्य/ACCOUNTANT MEMBER

Dated :28/04/2025

OKK - SPS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee –Bapulapadu Sri Rama Hanuman Primary Agricultural Coop. Society, 151 Bapulapadu Village, Bapulapadu Mandal, Krishna District, Andhra Pradesh-521105.
2. राजस्व/The Revenue: Income Tax Officer, Ward-1, Gudiwada, Andhra Pradesh-521301.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam