

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD “B” BENCH: HYDERABAD

BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA.No.176, 177 & 178/Hyd./2025
Assessment years 2020-2021 and 2022-2023

Adarsha Farmers Society Ltd., ANANTAPUR PIN – 515 871. PAN AAATT5883A Andhra Pradesh	Bharathi Cooperative	vs.	The ACIT, Circle-1, Kurnool.
(Appellant)			(Respondent)

For Assessee :	Shri Sashank Dundu, Advocate
For Revenue :	MS. Reema Yadav, Sr. AR

Date of Hearing :	29.04.2025
Date of Pronouncement :	29.04.2025

ORDER

PER MANJUNATHA G. :

The above three appeals are filed by a single assessee viz., Adarsha Bharathi Farmers Cooperative Society Ltd., against the respective orders of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC”], New Delhi, relating to the assessment years 2020-2021 and 2022-2023. Since common issues are involved in all these

three appeals, these appeals were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity.

2. At the very outset, there is a delay of 03 days in filing the above three appeals before the Tribunal. Shri Sashank Dundu, Advocate-Learned Counsel for the Assessee has filed a petition for condonation of delay of 03 days in filing the appeal before the Tribunal, contending, *inter alia*, that, due to technical glitch on common portal, the assessee could not generate Form 36 and as such, the appeal has been filed physically on 03.02.2025 with a delay of 03 days. He accordingly pleaded that the delay of 03 days in filing the appeal may please be condoned in the interest of justice. We are satisfied with the reasons explained by the Learned Counsel for the Assessee in filing the appeal before the Tribunal with 03 days delay and accordingly, we condone the delay of 03 days in filing the appeal before the Tribunal and proceed for adjudication of the appeal.

First, we take-up ITA.No.176 & 177/Hyd./2025 for the assessment year 2020-2021.

ITA.No.176 & 177/Hyd./2025 – A.Y. 2020-2021 :

3. Briefly stated facts of the case are that, the assessee is a Co-operative Society registered under the Registrar of Co-Operative Societies, Andhra Pradesh Act and filed its return of income on 25.12.2020 declaring total income at Rs.22,15,680/- after claiming deduction u/sec.80P of the Act at Rs.83,23,010/-. The case of the assessee society was selected for Complete Scrutiny assessment on account of deduction claimed by the assessee society under Chapter-VI-A of the Income Tax Act, 1961 [in short “the Act”]. The during the course of assessment proceedings, the Assessing Officer noted that, the assessee society has claimed deduction of Rs.83,23,010/- u/sec.80P(2)(a)(i) and further claimed that, it is eligible not for deduction u/s 80P(2)(a)(i) as all the incomes earned by the society attributable to profits and gains of business are eligible for deduction u/sec.80P of the Act. In support of its claim, the assessee society has also

furnished Bank statements, computation of income, copy of financial statements, details of deduction claimed under Chapter-VI-A. The Assessing Officer after considering the submission of the assessee society, disallowed the claim made by the assessee society u/sec.80P of the Act to the tune of Rs.19,99,225/- by excluding the interest income from fixed deposit of Rs.19,30,445/- and locker rent of Rs.68,780/- and arrived the deduction claimed by the assessee society u/sec.80P(2)(a)(i) of the Act at Rs.63,23,785/- on the ground that assessee has not filed list of members with corresponding interest received from each member. The Assessing Officer accordingly determined the total income of the assessee society at Rs.83,23,010/- vide order dated 18.09.2022 passed u/sec.143(3) r.w.s.144B of the Income Tax Act, 1961 and also initiated penalty proceedings u/sec.270A(9) of the Act separately vide order dated 29.03.2023 at Rs.59,81,946/- @ 200% for mis-reporting of income by the assessee society, which has been challenged by the assessee society before the Tribunal in

appeal ITA.No.177/Hyd./2025 for the assessment year 2020-2021.

4. On being aggrieved by the assessment order passed by the Assessing Officer, the assessee society carried the matter in appeal before the learned CIT(A). The learned CIT(A) after considering the submissions of the assessee society confirmed the addition made by the Assessing Officer on account of sec.80P deduction of Rs.83,23,010/- and directed the Assessing Officer to verify the addition made by him of Rs.19,99,225/- on account of interest on fixed deposit and locker rent by allowing the claim of assessee that it had already paid due taxes thereon.

5. Aggrieved by the order of the learned CIT(A), the assessee is now in appeal before the Tribunal.

6. Shri Sashank Dundu, Advocate-Learned Counsel for the Assessee submitted that, the authorities below erred in law and on facts in disallowing the claim of deduction u/sec.80P of the Act to the assessee society. He submitted that the assessee society had filed all the evidences during

the course of assessment proceedings before the Assessing Officer with regard to the loans and advances given to the members, list of members, copy of by-laws, financial statements, ledger accounts etc., to prove that the income earned is eligible for deduction u/sec.80P of the Act. However, without appreciating the material furnished by the assessee society, the Assessing Officer has disallowed the claim of the assessee u/sec.80P of the Act only on the ground that assessee has not filed list of members with corresponding interest received from each member. He submitted that, even the learned CIT(A) also passed ex-parte order without providing adequate opportunity to the assessee society. He, therefore, submitted that, the matter may be remitted back to the file of Assessing Officer for afresh verification in the interest of justice.

7. MS. Reema Yadav, Sr. AR for the Revenue, on the other hand, supporting the order of the learned CIT(A) submitted that, the orders passed by the authorities below are in accordance with law. She submitted that since the assessee society has failed to furnish the requisite details

called for by the Assessing Officer, the Assessing Officer had disallowed the deduction claimed by the assessee society u/sec.80P of the Act. She submitted that, as per the provisions of the Income Tax Act, any deduction or exemption claimed by an assessee, the onus is upon the assessee to prove with supporting documentary evidences and in absence of such documentary evidences, the disallowance made by the authorities below are justified and therefore, she submitted that the order of the learned CIT(A) confirmed.

8. We have heard both the parties, perused the material on record and the orders of the authorities below. We find that admittedly there is no dispute with regard to the fact that the assessee society is a cooperative society registered under the Cooperative Societies Act and claimed deduction u/sec.80P of the Act in it's return of income. However, the Assessing Officer being not satisfied with the submissions made by the assessee society during the course of assessment proceedings, disallowed the deduction claimed by the assessee society u/sec.80P of the Act to the

tune of Rs.83,23,010/- as against the returned income of Rs.22,15,680/-. The Assessing Officer disallowed the claim on the ground that, the assessee has not filed list of members with corresponding interest received from said members to be eligible for claiming deduction u/sec.80P(2)(a)(i) of the Act towards interest income earned during the year. It was submitted by the assessee that, the assessee society has filed list of members along with loans and advances given to each member, however, not furnished the separate list with corresponding interest. Although, the assessee society has filed relevant details before the learned CIT(A), but, the learned CIT(A) has passed ex-parte order without providing adequate opportunity of being heard to the assessee society. We, therefore, deem it fit and proper to restore the matter in issue back to the file of Assessing Officer with a direction to re-decide the matter in issue afresh, after providing adequate opportunity of being heard to the assessee. Accordingly, the grounds raised by the assessee in ITA.No.176/Hyd./2025 are allowed for statistical purposes.

9. Since the we have remitted the issue of quantum addition of sec.80P deduction back to the file of Assessing Officer for re-adjudication, on which, the Assessing Officer has levied the penalty, which is of consequential in nature, we, therefore, remit the issue of penalty levied u/sec.270A of the Act back to the file of Assessing Officer for re-adjudication with a direction to provide adequate opportunity of being heard to the assessee. Accordingly, the appeal ITA.No.177/Hyd./2025 of the assessee society for the assessment year 2020-2021 is allowed for statistical purposes.

ITA.No.178/Hyd./2025 – A.Y. 2022-2023 :

10. Brief facts of the case are that, for the impugned assessment year 2022-2023 the assessee society had filed it's return of income on 26.09.2024 declaring ti of Rs.16,67,400/- after claiming deduction u/sec.80P of the Act of Rs.30,44,291/-. The case of the assessee society was selected for scrutiny under CASS to verify the correctness of claim of deduction u/sec.80P and genuineness of liabilities declared. Accordingly, the Assessing Officer issued statutory

notices u/sec.143(2) and 142(1) on several dates. In response, the assessee society has filed its submissions. However, the Assessing Officer being not satisfied with the submissions made by the assessee society disallowed the assessee society's claim for deduction with respect to interest income earned from different cooperative banks, commercial banks and other financial institutions and accordingly assessed the interest income of Rs.30,44,291/- earned by assessee society and treated the same as income from other sources. Accordingly, the Assessing Officer determined the total income of the assessee society at Rs.47,11,691/- vide order dated 07.03.2024 passed u/sec.143(3) r.w.s.144B of the Income Tax Act, 1961.

11. On being aggrieved, the assessee society carried the matter in appeal before the learned CIT(A). The learned CIT(A) after considering the submissions of the assessee society, sustained the order of the Assessing Officer in disallowing claim of deduction made by the assessee society u/sec.80P of the Act.

12. Aggrieved by the order of the learned CIT(A), the assessee society is now in appeal before the Tribunal.

13. Shri Sashank Dundu, Advocate-Learned Counsel for the Assessee, submitted that the authorities are not provided adequate opportunity of being heard to the assessee. The Assessing Officer as well as the learned CIT(A) has passed the ex-parte orders. It was the contention of the Learned Counsel for the Assessee that, it is the settled position of law that, whatever be the amount of profit and gains of the business of the cooperative society attributable to its banking transactions or credit transactions with members, the same would be exempt from tax in the form of deduction u/sec.80P(2)(a) of the Act. He submitted that, there are certain conditions to get deduction u/sec.80P of the Act that, (i) the society must be a primary agricultural credit society, a primary cooperative bank, or a cooperative society engaged in providing medical relief, education, or other similar activities. (ii) The society must be registered under the Cooperative Societies Act, 1912, or any other law for the time being in force. (iii) The society must have its

income derived from its business or activities. He accordingly submitted that, the assessee society is a Cooperative Society registered under the Cooperative Societies Act and carrying out activities of providing credit facilities to its members only for agricultural activities and whatever interest the Society has earned out of the loans and advances given to its members and interest earned thereon, the assessee society is eligible for deduction u/sec.80P of the Act. He submitted that, since the main conditions are fulfilled by the assessee society and that the lower authorities had not provided adequate opportunity to substantiate its case, the matter may be remitted back to the file of Assessing Officer for re-adjudication of the matter in issue afresh, by providing adequate opportunity of hearing to the assessee society.

14. MS. Reema Yadav, Sr. AR, supporting the order of the learned CIT(A) submitted that, the assessee society has claimed deduction u/sec.80P of the Act, however, failed to prove that it has earned interest income from the bank with relevant documentary evidences and that the assessee

society has failed to discharge it's onus in proving that it had earned interest income from banks. Therefore, the learned CIT(A) has sustained the addition made by the Assessing Officer which is in accordance with law. She accordingly submitted that, the order of the learned CIT(A) be confirmed.

15. We have heard both the parties, perused the material on record and the orders of the authorities below. We find that, there is no dispute between the parties that, the assessee society is a cooperative society and earned interest on the loans and advances given to it's members. The only dispute is the quantum of interest income earned by the assessee society out of loans advances to it's members. The contention of the assessee is that, it had not provided adequate opportunity either by the Assessing Officer or by the learned CIT(A) to prove it's case. It was the contention of the assessee society that it is settled rule that whatever be the amount of profit and gains of the business of the cooperative society attributable to its banking transactions or credit transactions with members, the same

would be exempt from tax in the form of deduction u/sec. 80P(2)(a) of the Act. Therefore, it was the submission of the assessee society that, since the assessee society was not provided with adequate opportunity to prove its case, one more opportunity may be provided to substantiate its claim of deduction u/sec.80P of the Act. In view of the above facts and circumstances of the case, we find that, in order to meet the ends of justice, we restore the matter in issue back to the file of Assessing Officer with a direction to re-adjudicate the claim of deduction of assessee society u/sec.80P of the Act, by providing adequate opportunity of being heard to the assessee society. Needless to say, it is the sole risk and responsibility of the assessee society to plead and prove its case in consequential proceedings before the Assessing Officer by furnishing all documentary evidences as called for by the Assessing Officer in support of its case. Accordingly, the grounds of appeal of the assessee society are allowed for statistical purposes.

15. In the result, ITA.No.178/Hyd./2025 of the assessee is allowed for statistical purposes.

16. To sum-up, ITA.Nos.176, 177 and 178/Hyd./2025 of the assessee are allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 29.04.2025

Sd/-
[RAVISH SOOD]
JUDICIAL MEMBER

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 29th April, 2025

VBP

Copy to

1.	Adarsha Bharathi Farmers Cooperative Society Ltd., #AR 103, Kanekal, ANANTAPUR-515 871. Andhra Pradesh.
2.	The ACIT, Circle-1, Income Tax Office, Opp. Children's Park, NRPET, Kurnool – 518001.
3.	The DR ITAT "B" Bench, Hyderabad.
4.	Guard File.

/By Order//

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