

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, AM

ITA No.481/KOL/2024

(Assessment Year:2019-20)

**Patul Ganesh Bazar Samabay
Krishi Unnayan Samity Ltd.
Patul, Khanakul S.O., Hooghly,
West Bengal, 712406**

vs.

**ITO, Ward-24(1)
Opp. Aayakar Bhawan, Khadina
More, Chinsurah, Hooghly,
West Bengal, 712102**

(Appellant)

(Respondent)

PAN No. AAEAP5791J

Assessee by : Shri Soumitra Choudhry, AR

Revenue by : Shri Madhumita Das, DR

Date of hearing: 17.04.2025

Date of pronouncement : 14.05.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals) ADDL/JCIT(A)-2, Mumbai (hereinafter referred to as the "Ld. CIT(A)") dated 17.01.2024 for the AY 2019-20.

02. The only ground pressed at the time of hearing is ground no.5, which is extracted as under:

"5. For that on the facts of the case, that while issuing intimation u/s. 143(1) could not deny the claimed by the assessee as the same does not come within the ambit of 'an incorrect claim apparent from any information in the return', therefore, the disallowance made by the CPC was without jurisdiction, as such his finding is completely arbitrary, unjustified and illegal."

03. The facts in brief are that the assessee is a Primary Agricultural Credit Cooperative Society (PACS) situated in remote village at Patul, District: Hooghly, West Bengal. The main object of the assessee is to

provide credit facilities, KCC loans, and other agricultural loans to farmer members and banking business with the members. During the year the assessee did not file any return of income u/s 139(1) of the Act while the assessee filed the return u/s 139(4) of the Act declaring nil income after claiming deduction u/s 80P of the Act of ₹13,73,549/- . The said return was processed u/s 143(1) vide intimation dated 11.01.2021, wherein deduction claimed by the assessee under part VI of chapter VIA u/s 80P of ₹13,79,549/-, was rejected resulting into a demand of ₹6,04,844/-.

04. Aggrieved by the said order ,the assessee preferred the appeal before the Id. CIT (A), however, the Id. CIT (A) affirmed the order dismissing the appeal of the assessee by holding that that the assessee has not filed the return of income within time allowed u/s 139(1) of the Act but filed the income tax return u/s 139(4) of the Act and therefore, assessee was not entitled to claim the deduction u/s 80P of the Act.
05. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has been denied the deduction under Section 80P of the Income-tax Act, 1961 (the Act) amounting to ₹13,79,549/- on the ground that the return was not filed within time allowed u/s 139(1) of the Act and therefore, the assessee is not entitled to the said deduction. We have perused the provisions of Section 143(1)(a)(v) of the Act and find that the amendment brought by Finance Act, 2021, u/s 143(1)(a) is applicable from 01.04.2021, giving power to CPC for disallowing the claim of deduction u/s 80P of the Act if the return is not filed within the statutory time provided u/s 139(1) of the Act. Prior to the said amendment, there is no mechanism/ jurisdiction with AO/CPC to deny the deduction u/s 80P of the Act. The instant assessment year is A.Y.

2019-20, whereas the amendment is applicable from A.Y. 2022-23. The case of the assessee is clearly covered by the decision of the co-ordinate Bench in the case of ShyamganjPirijpurSamabay Vs. ACIT in ITA No. 1961/KOL/2024 for A.Y. 2018-19 vide order dated 05.02.2025, wherein the co-ordinate Bench held as under:-

"5. I have heard the parties and perused the record placed before me. The solitary issue arises for my consideration is whether the CPC was justified in denying the deduction claimed by the assessee u/s.80P of the Act for filing the return belatedly. An amendment was brought in section 143(1)(a) of the Act by the Finance Act, 2021 w.e.f. 01.04.2021 giving powers to the CPC for disallowing the claim of deduction u/s.80P of the Act if return of income is not filed within the statutory time limit provided u/s.139(1) of the Act. However, prior to amendment, there was no mechanism for CPC to deny the deduction u/s.80P of the Act. Admittedly, the assessment year under consideration is 2018-19 whereas the amendment has been brought in from A.Y. 2021-22 and therefore the CPC erred in making the adjustment by way of disallowing deduction u/s.80 of the Act in the instant case. My view is fortified by the decision of Coordinate Bench of the Tribunal in the case of Finolex Industries Ltd. Employees Co-o. Credit Society Ltd. Vs. ITO in ITA No.76/PUN/2023, dated 03.04.2023 wherein the issue was decided in favour of the assessee by observing as under :

"5. We have heard the submissions of the parties, considered the relevant materials/documents on record and analysed the facts and circumstances in this case. Section143(1)(a)(v) of the Act spells out that if any deduction is claimed under any of the provisions of Chapter VI-A which include deduction u/s 80P such deduction has to be allowed only if the return is filed within due date specified under sub-section 139(1) of the Act. In other words, if any return is filed beyond due date u/s 139(1) of the Act then no deduction u/s 80P shall be allowed. However, clause (v) was inserted by the Finance Act, 2021 w.e.f. 01-04-2021. The case of the assessee, on the other hand, is for F.Y. 2018- 19 relevant to A.Y. 2019-20 which is the period prior to amendment brought in by the Finance Act, 2021. Before this amendment, clause (v) did not include and cover deduction u/s 80P. So therefore, in the present Case of the assessee though admittedly return was filed beyond the time limit prescribed u/s 139(1) of the Act but still section 143(1)(a)(v) is not applicable to the assessee since the case of the assessee is for A.Y. 2019-20, which is before the amendment. We also accept the argument of the Id. A.R for the assessee that even if the revenue intends to invoke clause (ii) of section 143(1)(a) that would also not be permissible since in the definition of incorrect claim as provided in the provision, the deduction u/s 80P is not included anywhere and is therefore, outside the purview of the said provision. Therefore, rigors of provisions of section 143(1)(a)(ii) and clause (v) are not applicable to the case of the assessee. On this legal ground itself, the assessee succeeds and any other grounds on merits, if any, becomes academic in nature."

6. On perusal of the above, I find that the facts of the above case are identical to the instant case of assessee. Following the decision of the Coordinate Bench of the Tribunal (supra), I hold that CPC was not justified in disallowing the deduction claimed by assessee u/s.80P of the Act for A.Y. 2018-19 as the powers for doing so were brought into the Act from A.Y. 2021-22. I therefore reverse the impugned order of the lower authorities and direct the Assessing Officer to allow the deduction claimed by the assessee u/s.80P of the Act. Grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.”

06. Since, the facts before us are materially same, therefore, we respectfully following the decision of the co-ordinate Bench hold that the AO/ CPC has no jurisdiction to reject the claim of deduction u/s 80P of the Act in A.Y. 2019-20. Accordingly we set aside the appellate order and direct the AO to allow deduction u/s 80P. The ground no. 5 is allowed.

07. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 14.05.2025.

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 14.05.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata