

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 468/CHNY/2025

निर्धारण वर्ष/Assessment Year:2018-19

**The DCIT,**  
Non-Corporate Circle – 4,  
Coimbatore.

**The Tudiyalur Co-operative  
Agricultural Services Ltd.,**  
Vs. No.1, Tudiyalur Mettupalayam  
Road,  
Coimbatore – 641 042.

(अपीलार्थी/Appellant)

**PAN: AAAAT 3838L**

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. E. Pavuna Sundari, CIT  
प्रत्यर्थी की ओर से/Respondent by : Shri Jai V Vairav, CA

सुनवाई की तारीख/Date of Hearing : 10.06.2025  
घोषणा की तारीख/Date of Pronouncement : 11.06.2025

**आदेश /O R D E R**

**PER GEORGE GEORGE K, VICE PRESIDENT:**

This appeal at the instance of the Revenue is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi dated 06.12.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.

2. The Department has filed a condonation application for condoning the delay of 8 days in filing the appeal before the Tribunal. However on perusal of records, we find that the appeal has been filed within the due date prescribed (appeal filed on 14.02.2025). The CIT(A) has passed the order on 06.12.2024 and this appeal has been filed well within the due date prescribed u/s.253(3) of the Act i.e., within two months from the end of the month in which the order of CIT(A) has been passed. Therefore, there is no delay in filing this appeal and hence, we dispose off the same on merits.

3. The solitary issue that is raised is whether the CIT(A) has justified in allowing the appeal of the assessee, thereby granting the claim of deduction u/s.80P of the Act.

4. Brief facts of the case are as follows: The assessee is a co-operative society registered under the Tamil Nadu Co-operative Societies Act, 1983 ('TNCS Act'). For the assessment year 2018-19, the return of income was filed on 27.03.2019 (beyond the due date prescribed u/s.139(1) of the Act) declaring total income of Rs.28,84,250/- after claiming deduction u/s.80P of the Act amounting to Rs.5,51,79,320/-. The assessment was completed u/s.143(3) r.w.s. 144B of the Act vide order dated 23.04.2021. In assessment

completed, the claim of deduction u/s.80P of the Act was denied. Thus, the assessment was completed assessing total income at Rs.5,80,63,570/- as against the returned income at Rs.28,84,250/-. The reasons for denying the claim of deduction u/s.80P of the Act was that the assessee society was treated as co-operative bank doing the business of banking and in view of insertion of section 80P(4) w.e.f.01.04.2017, the assessee is not entitled to deduction u/s. 80P of the Act. Secondly, the AO held that assessee had not filed the return of income within the due date prescribed u/s.139(1) of the Act and is thus not complied with the provisions of section 80AC of the Act. For this reason also, the claim of deduction u/s.80P of the Act was denied by the AO.

5. Aggrieved by the order of the AO denying the claim of deduction u/s.80P of the Act, the assessee filed appeal before the FAA. The CIT(A) allowed the appeal of the assessee and deleted the addition of Rs.5,51,79,320/-. The relevant finding of the CIT(A) reads as follows:-

*“6.1.1 Before me in the appellate proceedings, the appellant filed written submission. The appellant relied upon various judgements of Hon. Madras High Court and Hon. ITAT Chennai ‘D’ Bench on this issue. The appellant has relied upon the decision of Hon. Madras High Court in the case of M/s. Ammapet Co-op Society on the identical issue. I agree with the submission of the appellant. Following decision of Hon. Madras High Court and Hon. ITAT, Chennai, the addition of the AO is deleted and appeal of the appellant is allowed.”*

6. Aggrieved by the order of the CIT(A), the Department has filed the present appeal before the Tribunal. The grounds raised read as follows:-

*1. The learnt CIT(A) erred in not considering the issue that the assessee has not complied with the provisions of section 80AC of the Income tax Act, 1961, which states that no deduction under the head "C" of Chapter-VI-A shall be allowed unless the assessee furnishes a return of income for such assessment year on or before the due date specified under sub-section(1) of section 139.*

*2. The CIT(A) ought to have considered that the disallowance u/s.80P is made not only on the issue of assessee doing banking business in view of insertion of sub-section(4) to section 80P of the Income tax Act, 1961, but also due to non-compliance of the assessee in fulfilling the conditions prescribed u/s.80AC of the Income tax Act, 1961.*

*3. The CIT(A) ought to have considered that the decision of the Honourable High Court of Madras in the case of M/s.Ammamet Co-op Society and other quoted decisions deal with only the issue whether the appellant is doing banking business or not and whether the provisions of sub-section(4) of section 80P are attracted or not.*

*4. The CIT(A) ought to have considered that the conditions prescribed u/s.section 80AC of the Income tax Act, 1961 are independent to the provisions of section 80P(4).*

*5. The CIT(A) ought to have held that the assessee failed to file the return of income within the due date prescribed u/s.139(1) of the Income tax Act, 1961 and this being a pre-condition prescribed u/s.80AC of the Income tax Act, 1961 to claim deduction u/s.80P of the Income tax Act, 1961, the assessee rendered itself ineligible for deduction u/s.80P (2) of the Income tax Act, 1961.*

7. The Ld.DR supported the grounds raised.

8. Per contra, the Ld.AR for the assessee submitted that assessee had filed a condonation application dated 08.05.2025 before the Ld.CCIT and the copy of the same is placed on record at pages 45 & 46 of the paper-book submitted by the assessee society. Further the Ld.AR submitted that statutory audit under the Tamil Nadu Co-operative Societies Act was duly completed on 31.01.2019 resulting in delay in filing the return of income within the due date prescribed u/s.139(1) of the Act. The Ld.AR submitted that since the assessee had filed a petition under section 119(2)(b) of the Act for condoning the delay in filing the return of income, this appeal may be restored to the files of the AO to await the outcome of the decision of the Ld.CCIT as regards delay condonation application.

9. We have heard rival submissions and perused the material on record. The AO had denied the benefit of deduction u/s.80P of the Act for two reasons namely, (i) assessee was doing the business of banking and in light of insertion of section 80P(4) of the Act, w.e.f. 01.04.2017, assessee is not entitled for deduction u/s.80P of the Act and (ii) assessee is not entitled to deduction u/s.80P of the Act for the reason that it had not filed the return within the prescribed due date u/s.139(1) of the Act. Hence, not complied with provisions of section 80AC of the Act.

10. The CIT(A) by following the Tribunal's order in assessee's own for the earlier assessment year namely 2008-09 in ITA No.475/Mds/2012, (order dated 26.10.2016) and the judgment of Hon'ble Jurisdictional High Court in the case of S-1308 Ammapet Primary Agricultural Cooperative Bank Ltd, in TCA Nos. 882 and 891 of 2018 had allowed the appeal of the assessee. The judgment of the Hon'ble Madras High Court in the case of S-1308 Ammapet Primary Agricultural Cooperative Bank Ltd, *supra* and other quoted judicial pronouncement by the CIT(A) deals only with the issue of whether the assessee's societies in those case are doing the business of banking and whether the provisions of section 80P(4) of the Act are attracted or not. The condition prescribed u/s.80AC are independent of the provisions of section 80P(4) of the Act. On reading the grounds raised, it is clear that the Department before the Tribunal is only contesting the issue that assessee had not filed the return of income within the time prescribed u/s.139(1) of the Act and in view of section 80AC, assessee is not entitled to deduction u/s.80P of the Act.

11. Section 80AC of the Act was introduced w.e.f. 01.04.2018 wherein it has been clearly mentioned that unless and until the assessee files its return of income within the due date prescribed

u/s.139(1) of the Act, the assessee would not be entitled to deductions under the head 'C' of Chapter VI-A (which includes section 80P of the Act). The Ld.AR for the assessee had submitted that assessee has filed a petition for condoning the delay in filing the return of income before the CCIT. The copy of the same is placed on record. Since the assessee had filed a condonation application and the same is pending consideration, we deem it appropriate to restore the case to the file of the AO. The AO is directed to await the outcome of the decision of the CCIT as regards the condonation application and take a decision in accordance with law. It is ordered accordingly.

12. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 11<sup>th</sup> June, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 11<sup>th</sup> June, 2025

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.