

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

I.T.A.No. 76/NAG/2025
(Assessment Year 2021-22)

Vividha Karyakari Co-op Society, Warora Sphurty Club, Abhyankar Ward, Warora, Chandrapur, Maharashtra. PAN : AAJV 0249 E (Appellant)	vs.	ITO, Ward-2, Chandrapur. (Respondent)
---	-----	--

For Assessee :	Shri Mahavir Atal, CA
For Revenue :	Shri Anand Nagrale, Sr.DR

Date of Hearing :	18.06.2025
Date of Pronouncement :	18.06.2025

ORDER

This appeal has been preferred by the assessee against the order dated 08/11/2025 impugned herein passed by the Ld. ADDL/JCIT (A)-2, Chennai [in short, "Ld.Commissioner"] u/sec. 250 of the Income Tax Act, 1961 (for short, "the Act") for the Assessment Year (for short, "AY") 2021-22.

2. Admittedly, the assessee has filed the audited report within the prescribed time, however, due to Covid-19 pandemic when the entire nation was on-hold, committed default for not filing the return of income within the time prescribed. Admittedly, the assessee filed the same on 26/03/2022 i.e. prior to the time available for filing of return of income u/sec. 139(4) i.e. upto 31/03/2022. But, still the A.O./CPC vide intimation order dated 02/11/2022 disallowed the deduction claimed to the tune of ₹ 45,73,882/-, ₹ 1,50,515/-, ₹5,31,335/-, ₹38,39,032/- respectively u/sec. 80P(2)(d), 80P(2)(a)(i)(iv) & 80P(2)(a)(i). The assessee being aggrieved with the said intimation, filed first appeal before the Ld. Commissioner, however, of no avail as the Ld. Commissioner by taking cognizance of return filed by the assessee belatedly and not as per the parameters set out u/sec. 131(4), dismissed the appeal and affirmed the aforesaid disallowances made by the A.O./CPC. Therefore, the assessee being aggrieved has preferred this instant appeal.

3. Admittedly, the jurisdictional High Court in the case of *Trustee of Tulsidas Gopalji Charitable & Chaleshwar Temple Trust vs. CIT* (207 ITR 368)(Bom-HC) has also dealt with an identical issue, wherein the return, by the assessee, was filed belatedly as per the provisions of sec. 139(4) of the Act. The Hon'ble Court by considering the peculiar facts and circumstances of the case, ultimately held "*that if a return is filed within the time specified in sub-section (4) of section 139 of the Act and the option contemplated by the Explanation to sec.11(1) is exercised in writing along with such return, the requirements of the Explanation to sec. 11(1) would stand satisfied*". The spirit of dictum and by the Hon'ble High Court is very much clear. As in the instant case, the assessee has shown its intention for claiming deduction by filing the audit report within the time prescribed and by filing the

return of income belatedly has also claimed the said deduction. Even otherwise either of the authorities below had been rejected such return. Therefore, considering the peculiar facts and circumstances of the case in totality, this Court is inclined to allow the appeal of the assessee and consequently directing the jurisdictional A.O. to verify the deduction claimed by the assessee u/sec. 11 of the Act and grant the relief accordingly. Thus, the case is remanded to the file of the Assessing Officer for limited purpose of verification.

4. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 18.06.2025.

Sd/-
(Narender Kumar Choudhry)
Judicial Member

vr/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned.
4.	D.R. ITAT, Nagpur Bench, Nagpur.
5.	Guard File.

By Order

//True Copy //

Sr. Private Secretary,
ITAT, Nagpur Bench.