IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SONJOY SARMA, JM

ITA No. 649/Coch/2024
Assessment Year: 2013-14

Pananchery Service Co-op. Bank Ltd. ..... Appellant
Pattikad, Pananchery, Thrissur 680652
[PAN: AABAP5815A]

vs.

The Income Tax Officer, ward-2(4), Thrissur ..... Respondent

Appellant by:	Shri Amaljith P.J., CA
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	04.06.2025
Date of Pronouncement:	30.06.2025

O R D E R

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 24.05.2024 for Assessment Year (AY) 2013-14.

2. Brief facts of the case are that the appellant is a co-operative society registered under the Kerala State Co-operative Societies Act, 1969. It is classified as primary agricultural credit co-operative society. No return of income was filed for AY 2013-14. Therefore, the ITO, Ward-2(4), Thrissur (hereinafter called "the AO") formed

an opinion that income escaped assessment. Accordingly, a notice u/s. 148 was issued on 03.06.2015. In response to the said notice the appellant filed return of income on 21.11.2016 showing Nil income after claiming deduction u/s. 80P of the Income Tax Act, 1961 (the Act). Against the said return of income, the assessment was completed by the AO vide order dated 15.12.2016 passed u/s. 143(3), r.w.s. 147of the Act at a total income of Rs. 2,16,40,265/-. While doing so, the AO denied deduction u/s. 80P on the ground that the appeal is a co-operative bank.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order, placing reliance on the decision of the Hon'ble Jurisdictional High Court Nileshwar Range Kallu Chethu Vyavasaya Thozihilali Sahararana Sangham [2023] 459 ITR 730 (Ker), confirmed the action of the AO.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. We have heard the rival contentions of both the parties and perused the material available on record. The solitary issue that arises for our consideration is whether or not the CIT(A) was correct in law in confirming the action of the AO denying deduction u/s. 80P of the Act as no valid return of income was filed by the assessee. Admittedly, in the present case the assessee not filed valid return of income either under the provisions of section 139 of the Act or in response to the notice u/s. 142(1) issued by the AO. The provisions of sub-section 80A(5) mandates

that in order to claim a deduction under the section specified under Chapter VI-A, a claim is required to be made in the return of income. The issue in the present case is settled against the assessee by the decision of the Hon'ble Jurisdictional High court in the case of Nileshwar Range Kallu Chethu Vyavasaya Thozihilali Sahararana Sangham [2023] 459 ITR 730 (Ker) wherein it was held as under: -

> "11. On a consideration of the rival submissions and on a perusal of the statutory provisions, we find that a reading of Section 80A(5) and Section 80AC of the IT Act as they stood prior to 1.4.2018, when the latter provision was amended by Finance Act 2018, would reveal that the statutory scheme under the IT Act was to admit only such claims for deduction under Section 80P of the IT Act as were made by the assessee in a return of income filed by him. That return can be under Sections 139(1), 139(4), 142(1) or Section 148, and to be valid, had to be filed within the due date contemplated under those provisions. Under Section 80A(5), the claim for deduction under Section 80P could be made by an assessee in a return filed within the time prescribed for filing such returns under any of the above provisions. The amendment to Section 80AC with effect from 1.4.2018, however, mandated that for an assessee to get a deduction under Section 80P of the IT Act, he had to furnish a return of his income for such assessment year on or before the due date specified in Section 139(1) of the IT Act. In other words, after 1.4.2018, even if the assessee makes his claim for deduction under Section 80P in a return filed within time under Sections 139(4), 142(1) or Section 148, he will not be allowed the deduction, unless the return in question was filed within the due date prescribed under Section 139(1). Thus, it is clear that the statutory scheme permits the allowance of a deduction under Section 80P of the IT Act only if it is made in a return recognised as such under the IT Act, and after 1.4.2018, only if that return is one filed within the time prescribed under Section 139(1) of the Act. As the return in these cases, for the assessment years 2009- 10 and 2010-11, were admittedly filed after the dates prescribed under Sections 139(1) and 139(4) or in the notices issued under Section 142(1) and Section 148, the returns were indeed non-est and could

not have been acted upon by the Assessing Officer even though they were filed before the completion of the assessment.

12. There is yet another aspect of the matter. The requirement of making the claim for deduction in a return of income filed by the assessee can be seen as a statutory pre-condition for claiming the benefit of deduction under the IT Act. It is trite that a provision for deduction or exemption under a taxing Statute has to be strictly construed against the assessee and in favour of the Revenue. Thus viewed, a failure on the part of an assessee to comply with the precondition for obtaining the deduction cannot be condoned either by the statutory authorities or by the courts.

13. It is in the backdrop of the aforesaid discussion that we must consider the findings of a Division Bench of this Court in The Chirakkal Service Co-operative Bank Ltd. [supra]. The findings therein, that appear to suggest that a claim for deduction under Section 80P can be entertained even if it is made in a return filed beyond the time permitted under the IT Act, ignores the perspective that sees the requirement of the claim for deduction being made in a valid return as a pre-condition for obtaining the benefit of the statutory deduction. The said findings also fly in the face of the express statutory provisions that requires the claim to be made in a return filed by the assessee, by which term is meant a valid return under the Act, and therefore have necessarily to be seen as per incuriam. We also find that the subsequent amendments to Section 80AC by the Finance Act 2018 fortifies the view that we have taken for, it makes the claim for deduction under Section 80P conditional on filing a return within the due date prescribed under Section 139(1) of the IT Act. In other words, the pre-condition for claiming the deduction under Section 80P of the IT Act has now been made more stringent by reducing the time available to an assessee for making the claim."

Respectfully following the decision of the Hon'ble Jurisdictional High Court we hold that the assessee is not entitled for deduction u/s. 80P of the Act as no valid return of income was filed by the assessee society. Thus, we do not find any merit in the appeal filed by the assessee.

6. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 30th June, 2025.

Sd/-	Sd/-
(SONJOY SARMA)	**(INTURI RAMA RAO)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Cochin, Dated: 30th June, 2025

n.p.

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1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
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Assistant Registrar
ITAT, Cochin