

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

(HYBRID HEARING)

**श्रीरवीश सूद, न्यायिकसदस्य एवं श्रीएसबालाकृष्णन, लेखासदस्यकेसमक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकरअपीलसं./I.T.A.No.245/VIZ/2025
(निर्धारणवर्ष/ Assessment Year: 2017-18)**

Sri Satyanarayana Pradhamika Vyavasaya Sahakara Parimithi Sangam Sri Satyanarayana Pradham Kakulapadu, Kakulapadu Post Bapulapadu Mandal - 521106 Andhra Pradesh [PAN:AAFAS5807D] (अपीलधर्ती/Appellant)	Vs.	Income Tax Officer-Ward – 1 Income Tax office Opp. Bhaskar Talkies Gudiwada - 521301 Andhra Pradesh (प्रत्यर्ती/Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	08.07.2025
घोषणा की तारीख/Date of Pronouncement	:	18.07.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre,

Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1063795148(1) dated 31.03.2024 for the A.Y.2017-18 arising out of the order passed under section 144 of Income Tax Act, 1961 (in short ‘Act’) dated 21.12.2019.

2. Briefly stated facts of the case are, assessee has not filed his return of income for the A.Y. 2017-18. As per the information in possession with the Department it was noticed that assessee has deposited cash of Rs.42,44,500/- in the bank account held with the Krishna District Central Co-operative Bank, Kakulapadu, during the demonetization period. Thereafter, notice under section 142(1) of the Act dated 23.11.2017 was issued calling for the return of income. Assessee failed to comply with the notice. The Ld. Assessing Officer [hereinafter in short “Ld. AO”] thereafter issued a show-cause notice dated 11.06.2019 intimating the assessee about the completion of the assessment under section 144 of the Act, since the assessee failed to respond to the notices. In response to the above show-cause notice, assessee furnished information such as Trading Account, Profit & Loss Account, Income & Expenditure Account & balance Sheet as on 31.03.2017. Ld. AO observed that assessee has shown net profit at Rs.94,55,673/- whereas the assessee claiming entire profit as deduction under section 80P of the Act. Ld. AO found that no valid return of income has been filed by the assessee and therefore by applying provisions of section

80A(5) of the Act disallowed the deduction claimed by the assessee by adding it to the total income of the assessee. Further, Ld. AO also made addition of Rs.11,50,962/- being the cash deposits made during the demonetization period which is more than the cash on hand as on 08.11.2016 amounting to Rs.7,65,538/-.

3. On being aggrieved, by the additions made by the Ld. AO, assessee is in appeal before the Ld. CIT(A). Before Ld. CIT(A), assessee submitted that the opening balance as on 08.11.2016 is Rs.19,16,857/- whereas the Ld. AO has wrongly taken the balance as on 05.11.2016 for determining the disallowances of Rs.11,50,962/-. Further, Ld. CIT(A) also dismissed the appeal with respect to the deduction claimed by the assessee under section 80P(2)(a)(i) of the Act amounting to Rs.94,55,673/-.

4. On being aggrieved by the dismissal of the appeal by the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

“1. The orders passed u/s 144 of the IT Act, dt. 21.12.2019, which were subsequently upheld by the Id. CIT(A), NFAC vide orders passed u/s 250 of the IT Act, dt. 31.03.2024, are contrary to both the facts of the case and the provisions of law.

2. The Ld. CIT(A) failed to consider the appellant's case from the perspective of section 80AC of the IT Act prior to its amendment vide Finance Act 2018. It is pertinent to note that the appellant society is rightfully entitled to claim deduction u/s 80P(2)(a)(i) of the IT Act, which falls outside the purview of section 80AC for the impugned assessment year.

3. *It is essential to note that the provisions of section 80AC, as applicable up. to AY. 2017-18, specify that only certain incomes provided in sections 80IA, 80IAB, 80IB, 80IC, 80ID, 80IE would be restricted for deduction under this section. However, the appellant's case pertains to section 80P(2)(a)(i), which is distinctly outside the purview of section 80AC.*

4. *The Id. CIT(A) erred in confirming the cash deposits (SBN) made by the appellant society during the demonetization period to the extent of Rs.11,50,962/-. These deposits were duly recorded in the books of accounts and stemmed from explained sources. Invoking the provisions of section 69A of the IT Act for deeming these deposits as unexplained is against the provisions of the law.*

5. *Under the facts and circumstances of the case invoking provisions of sec. 69A of the IT Act for alleged unexplained cash deposits made in the bank account is against the provisions of the section.*

6. *For these and other reasons that are to be urged during the hearing of the case, the appellant respectfully prays that the orders passed u/s 250 of the IT Act are liable to be set aside.”*

5. Ground Nos. 1, 5 & 6 are general in nature and needs no adjudication.

6. Ground No. 2 & 3 relates to denial of deduction claimed by the assessee under section 80P(2)(a)(i) of the Act. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that Ld. AO has erred in making the addition by applying provisions of section 80A(5) of the Act considering that the assessee has not filed valid return of income. With respect to Ground No. 4, Ld.AR submitted that the assessee has closing balance as on 08.11.2016 amounting to Rs.19,16,857/-, and further submitted that out of the balance available on 08.11.2016, consequent to demonetization, an amount of

Rs.19,16,500/- was deposited as Specified Bank Notes into the bank account of the assessee. He further submitted that Ld. AO has erred in considering the wrong closing balance and therefore the addition of Rs.11,50,962/- is not justifiable.

7. Per contra, Ld. DR submitted that the Ld. AO is right in denying the deduction claimed by the assessee under section 80P(2)(a)(i) of the Act without filing the valid return. She further submitted that section 80A(5) of the Act was invoked by the Ld. AO since the assessee has not made any claim in the return of income which was never filed by the assessee. On this issue, she placed heavy reliance on the decision of the Hon'ble Kerala High Court in the case of Nileswar Range Kallu Chethu Vyayasaya Thozhilali Sahakarana Sangham v. CIT [2015] 62 taxmann.com 189 (Kerala). On the issue of cash deposits, the Ld.DR fully supported the orders of the Revenue authorities.

8. We have heard rival contentions and perused the material available on record. It is an undisputed fact that the assessee has not filed his return of income for the A.Y. 2017-18 by making claim under section 80P(2)(a)(i) of the Act. The assessee has claimed the entire profit of Rs.94,55,673/- as reflected in the books of accounts which was submitted during the course of assessment proceedings under section 80P(2)(a)(i) of the Act without filing valid return of income. The Ld. CIT(A) in Para No. 5.2 observed that since no return has been

filed by the assessee provision of section 80A(5) was invoked by the Ld. AO, the observations of the Ld. CIT(A) are reproduced below for reference: -

“5.2. The issues were considered. Relevant assessment order, statement of facts, grounds of appeal and written submissions were carefully perused. From the assessment order, grounds of appeal and written submission, it is an undisputed fact that the appellant has not filed any valid Return of Income under Section 139(1) of the Act. During the course of assessment proceedings, in its explanations, the appellant claimed that the entire profit earned of Rs. 94,57,673/- as reflected in the books of accounts as a deduction under Section 80P(2)(a)(i) of the Act. The appellant has contended that this income has been earned from its business activity of lending to its members and from its activity of investing and therefore the same should have been allowed as a deduction under section 80P(2)(a)(i). It is pertinent to note that after considering the facts of the case, the AO has rightly disallowed the claim of the appellant in accordance with the provisions of Section 80A(5) of the Act. It is further submitted that in accordance with the provisions of Section 80A(5) of the Act, where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder. Thus, I do not find any infirmity in the decision of the AO and I am not inclined to interfere with the decision of the AO.

Hence, Grounds of appeal No. 2 is found to be not maintainable. Accordingly, the same is hereby dismissed.”

9. Section 80A(5) of the Act is reproduced below for reference: -

“80A(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10-A or section 10-AA or section 10-B or section 10-BA or under any provision of this Chapter under the heading "C.-Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder.”

10. From the bare reading of the above section, it is clear that assessee should make a claim in his return of income and unless he makes a claim in the return

of income no deduction shall be allowed to him there under. In the instant case, assessee has not filed return of income who has submitted before Ld. AO that the entire profit earned as reflected from the books of accounts may be allowed as deduction under section 80P(2)(a)(i) of the Act. The Revenue has rightly invoked section 80A(5) and hence we find no reason to interfere with the order of the Ld. CIT(A) and thereby dismiss the Ground No. 2 & 3 raised by the assessee.

11. With respect to Ground No. 4, it was argued that the assessee has the cash balance of Rs.19,16,857/- on 08.11.2016 as evidenced from the books of accounts produced before the Revenue Authorities. However, the contention of the Ld.AR is that the Ld. AO has wrongly taken the balance of Rs.7,65,538/- as on 08.11.2016 but as per the Ld.AR the balance amount of Rs. 7,65,538/- is as on 05.11.2016. However, no documentary evidences have been produced before us to justify the claim made by the assessee that the closing balance stood at Rs.19,16,857/- as on 8.11.2016. However, following the principle of natural justice, we consider it deem fit to provide one more opportunity to establish the claim before Ld. AO that the closing balance stood at Rs.19,16,857/- as per the books of accounts on 08.11.2016. We therefore direct the Ld. AO to verify and examine the cash book and the cash balances as on 08.11.2016 before deciding the issue on merits. We thereby remit the matter

back to the file of Ld. AO and thus allow the ground raised by the assessee statistically.

12. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 18th July, 2025.

Sd/-
(रवीश सूद)
(RAVISH SOOD)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 18.07.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Sri Satyanarayana Pradhamika Vyavasaya Sahakara Parimithi Sangam**
Sri Satyanarayana Pradham
Kakulapadu, Kakulapadu Post
Bapulapadu Mandal - 521106
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer-Ward – 1**
Income Tax office
Opp. Bhaskar Talkies
Gudiwada - 521301
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam