

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 928/Bang/2025
Assessment Year: 2018-19

Heddur Vyavasaya Seva Sahakara Sanga Niyamitha, Heddur Post, Thirthahalli – 577 416. Shimoga.  <b>PAN – AAAAH 6921 N</b>	Vs.	The Income Tax Officer, Ward - 1 & TPS, Shimoga.  .
APPELLANT		RESPONDENT

Assessee by	:	Shri Gireesha T.L, CA
Revenue by	:	Shri Ganesh R Ghale, Advocate for Standing Counsel

Date of hearing	:	25.06.2025
Date of Pronouncement	:	04.08.2025

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi vide order dated 30/01/2025 in DIN No. ITBA/NFAC/S/250/2024-25/1072703095(1) for the assessment year 2018-19.

2. The assessee raised following grounds of appeal:

*"1. The Appellant objects to the Assessment Order on the following grounds in so far as it is prejudicial to the Appellant as it is opposed to law and circumstances of the case: -*

*2. The Appellant is a Cooperative Society registered under the Karnataka State Co-operative Societies Act, 1959, carrying on the business of supplying, seeds, fertilizers; agriculture equipment's and providing credit facility to its members. Claimed the Deduction Under section 80P of the Income tax act, Because Appellant society, is Registered Cooperative and eligible for Claiming Deduction under section 80P Of the Income Tax 1961. The Registration certificate copy of the Society is attached herewith and marled as annexure -1.*

*3. The Learned CIT is not correct in dismiss the appeal for the delay in filing of the appeal.*

*4. The Appellant is cooperative society, it is a vyavasaya Seva sahakari Sangha, situated in rural area and serving the farmer members of the society.*

*The notices and order is served on mail id, which is accessed by the appellatant society secretary,*

*The secretary and the office bearer of the society are farmers and has no knowledge of the filing, assessment and appeal procedures of the Income tax act*

*Hence there is a sufficient reason for delay in filing the appeal. Hence the delay would have condoned by the learned CIT."*

3. The effective issue raised by the assessee is that the revenue authorities erred in denying the deduction under section 80P of the Act.

4. The relevant facts are that the assessee is an agricultural credit society supplying seeds, fertilizers, agricultural equipment, and providing credit facilities to member farmers. Based on information received, the AO found that the assessee, during the year (A.Y. 2018-19), had made a cash deposit of ₹1,97,77,464/- in a bank account maintained with Shimoga District Cooperative Central Bank. However, no return of income was filed by the assessee. Accordingly, the AO issued a notice under section 148A(b) of the Act, which remained unanswered. Hence, the AO issued a notice under section 148 of the Act dated 28<sup>th</sup> March 2022 and initiated the reopening/reassessment proceedings under

section 147 of the Act. In response to the notice under section 148 of the Act, the assessee filed a return of income declaring income at Nil after claiming a deduction under section 80P(2)(a)(i) of the Act for ₹5,23,803/- only.

5. As the assessee had not filed the return of income within the prescribed time limit under section 139(1) of the Act, the AO, in accordance with the provisions of section 80AC of the Act, proposed to disallow the claim of deduction under section 80P of the Act vide show cause notice dated 05<sup>th</sup> December 2023.

6. The AO found that the assessee logged into the ITB portal on 13<sup>th</sup> December 2023 but did not respond to the show cause notice. Therefore, the AO concluded that the assessee had nothing to say against the proposed disallowance and proceeded to complete the assessment under section 147 read with section 144B of the Act vide order dated 27<sup>th</sup> December 2023, disallowing the claim of deduction. Hence, the AO assessed the income of the assessee at ₹5,23,803/- only.

7. The aggrieved assessee preferred an appeal before the learned CIT(A), which was filed on 20<sup>th</sup> March 2024. As the appeal was not filed within the prescribed time limit of 30 days, the learned CIT(A) dismissed the assessee's appeal without admitting it. The relevant extract of the learned CIT(A)'s observation is reproduced as under:

*3. It is clear from the above that the order u/s 147 r.w.s. 144B was made on 27.12.2023 which got admittedly served upon the appellant on 31.12.2023 but the appeal was filed on 20.03.2024 i.e. beyond prescribed time of 30 days, whereas the appellant was required to file appeal within 30 days as provided vide section 249(2) on receipt of order u/s 147 r.w.s. 144B. The petition of the appellant regarding late filing of appeal is carefully considered on merit. The appellant being a co-operative society should be found unacceptable if it shows*

*the callous attitude towards statutory notices and orders. Further, it must be aware about consequences under provisions of Income Tax Act, 1961. The appellant was not able to give any sufficient cause which prevented it to file appeal in time. Since, the appellant has not given any sufficient cause, the case laws relied on by the appellant are irrelevant in this case. Therefore, the contention of the appellant is without any substance in it.*

*4. It should be noted that the legislature has provided time limits for certain obligations under the Act and these time limits have to be observed. It is compliance requirement imposed by law in the interest of proper regulation of the Act. **Hon'ble High Court of Delhi in case of Lava International Ltd Vs CBDT (Civil writ petition No. 1199/2020 dated 30.5.2022) has stated that power of condonation can be exercised to deal with the extraordinary circumstances only which would have led to delay in statutory compliance and the same cannot be exercised routinely.** The appellant was required to file appeal within 30 days of the receipt of demand notice. However, the appellant has not done so. The reason stated can't be construed as sufficient cause for not presenting the appeal in time. Therefore, as provided in the section 249(3) of the IT Act, I am not satisfied that the appellant had sufficient cause for not presenting the appeal within the specified period. Hence, since appeal was not filed within prescribed time as provided in the section 249(2) of the IT Act, the same is not admitted.*

8. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

9. The learned AR before us submitted that the assessment order was served through email. The secretary and other office bearers of the society are farmers and are not well-versed in income tax procedures and appeal filing. Therefore, the delay of 50 days in filing the appeal occurred, which could have been condoned by the learned CIT(A). However, the learned CIT(A) proceeded to dismiss the appeal account of delay.

10. The learned AR further submitted that the authorized representative of the assessee, Shri Nagaraja H. L., was under medical treatment due to serious health issues and was not attending the office, which caused the delay in filing the return of income. The learned AR

contended that the delay in filing the return of income within the prescribed time limit was beyond the control of the assessee. Therefore, due to this failure, which was not intentional or not within the assessee's control, the assessee should not be deprived of the benefit of deduction under section 80P of the Act, which was otherwise allowable.

11. On the contrary, the learned DR vehemently supported the order of the authorities below.

12. We have heard the rival contentions of both the parties and perused the material available on record. The assessee, a cooperative society engaged in agricultural credit and allied services, was denied the benefit of deduction under section 80P of the Act on the ground that the return of income for A.Y. 2018–19 was not filed within the prescribed time under section 139(1) of the Act. The learned AO disallowed the claim under section 80AC of the Act and completed the assessment under section 147 r.w.s. 144B.

12.1 It is not in dispute that the assessee filed the return of income only after the issuance of notice under section 148 of the Act and that the return was filed belatedly. The explanation for such delay, as submitted by the learned AR, was that the authorised person, Shri Nagaraja H. L., was undergoing medical treatment and could not attend the office. However, this explanation has neither been verified by the AO and CIT(A) nor supported by any documentary evidence. In the absence of such verification or evidence, the correctness of the claim cannot be ascertained by the us.

12.2 Further, the appeal before the learned CIT(A) was delayed by 50 days. The reason cited for this delay was that the office bearers of the society, being farmers, were not well-versed with income-tax law and procedures and the notice of assessment was served through email. While we find some merit in the claim that the assessee may have lacked the required legal awareness and infrastructure, the fact remains that the learned CIT(A) did not examine the matter with reference to the power of condonation under section 249(3) of the Act and did not properly evaluate the cause shown for delay. Instead, the appeal was rejected at the threshold without affording an opportunity for de novo adjudication on merits.

12.3 We also note that section 119(2)(b) of the Act empowers the Board to authorize any income-tax authority to admit applications or claims for any exemption, deduction, refund or any other relief even after the expiry of the prescribed time limit, where genuine hardship is shown. The principle underlying this provision is that procedural delays should not defeat substantive justice. At the time of hearing, it was brought to notice that the assessee has already moved an application under section 119(2)(b) of the Act. If the delay is condoned by the income tax authority, then the assessee is going to get the benefit of deduction under section 80P of the Act. Accordingly in the interest of justice and fair play, we are inclined to condone the delay in filing the appeal by the assessee before the learned CIT-A and further remit the issue to the file of the AO for fresh adjudication in the light of the outcome of the application filed by the assessee under section 119(2)(b) of the Act. Hence the ground of appeal of the assessee is hereby allowed for statistical purposes.

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

Order pronounced in court on 4th day of August, 2025

Sd/-

**(KESHAV DUBEY)**  
Judicial Member

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 4<sup>th</sup> August, 2025  
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore