

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA Nos.806 & 807/Ahd/2025  
(Assessment Year: 2010-11)

The Shuklatirth Seva Sahakari Mandli Ltd., At Shuklatirth, Bharuch, Bharuch-392022. [PAN :AAATT2642 M]	Vs.	The Income Tax Officer (Exemption)Ward, Vadodara.
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Ms Urvashi Shodhan, AR
<b>Respondent by:</b>	Shri Kamal Deep Singh, Sr. DR
<b>Date of Hearing</b>	07.07.2025
<b>Date of Pronouncement</b>	12.08.2025

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

**Delay Condoned**

These two appeals have been filed by the Assessee against the separate appellate orders passed by the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, relating to the Assessment Year 2010-11; i.e. one arising out of the appellate order dated 27.12.2023 passed u/s 250 of the Income-tax Act, 1961 ("the Act") and the other arising out of the order dated 05.02.2025 passed u/s 254 r.w.s. 250 of the Act, rejecting the rectification application filed under section 154 of the Act.

2. As common issues are involved in both appeals, they are being disposed of by way of a consolidated order. For the purpose of adjudication, we refer to the grounds raised in ITA No. 806/Ahd/2025, which are as under:

3. The assessee has raised the following grounds of appeal:

*1. Ld. CIT (A) (NFAC) erred in law and on facts dismissing the appeal ex parte since all the notices issued during the appellate proceedings were sent to some email id not belonging to the appellant.*

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2. Ld. CIT (A) (NFAC) erred in law and on facts in not admitting the appeal filed by the appellant u/s 249(4) (b) of the Act without appreciating the fact that the appellant a registered co-operative credit society under the provisions of Sec. 80 (P) was exempted from paying taxes.

3. Ld. CIT (A) (NFAC) erred in law and on facts in confirming the addition of cash deposits of Rs. 42, 39,074/- ignoring the fact that appellant credit society dealt in trading of pesticides, agricultural seeds, food grains for the benefit of members staying in remote areas on co-operative basis and such cash deposits in the bank account are exclusively sale proceeds of trading receipts.

4. Ld. CIT (A) (NFAC) erred in law and on facts in wrongly recording the amount of addition as Rs. 72, 39,074/- instead of Rs.42, 39, 074/- made by AO in the assessment order thus enhancing the addition wrongly.

5. Ld. CIT (A) (NFAC) erred in law and on facts in not adjudicating on merits by considering statement of facts and grounds of appeal which is against the principles of natural justice.

6. Levy of interest u/s 234A/ 234B & 234C of the Act is unjustified.

7. Initiation of penalty proceedings u/s 271 (1)(c) of the Act is unjustified.

*The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

4. The assessee is a co-operative credit society. For the year under consideration, it did not file its return of income. Based on information regarding cash deposits of Rs. 42,39,074/- in the assessee's bank account during FY 2009-10, the case was reopened u/s 147 by issuing notice u/s 148 dated 29.03.2017. No return or explanation was submitted by the assessee in response. The Assessing Officer thereafter passed an *ex-parte* assessment u/s 147 r.w.s. 144 on 07.12.2017, making an addition of Rs. 42,39,074/- u/s 69 of the Act treating the cash deposits as unexplained income.

5. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A), who dismissed the appeal on the ground that the assessee had not complied with the condition prescribed u/s 249(4)(b) of the Act, i.e. payment of advance tax before filing the appeal.

6. The assessee subsequently filed a rectification application u/s 154 dated 06.06.2024, pointing **out that the Ld. CIT(A) had incorrectly mentioned the**

**addition as Rs. 72,39,074/- instead of Rs. 42,39,074/-, and had failed to consider the exemption claim u/s 80P of the Act. The said rectification application was rejected by the Ld. CIT(A) on 05.02.2025.**

7. Before us, the Ld. AR submitted that the order passed by the Ld. CIT(A) was an *ex-parte* order, which was passed without affording a proper opportunity of being heard. The Ld. AR submitted that all appellate notices were sent to an incorrect email address not belonging to the assessee. The Ld. AR also contended that the assessee, being a registered co-operative credit society, is eligible for deduction under section 80P of the Act, and therefore was not liable to pay any advance tax. Hence, the Ld. AR prayed that the appeal should not have been dismissed u/s 249(4)(b) of the Act.

8. The Ld. DR, on the other hand, supported the orders of the authorities below.

9. We have heard the rival contentions and perused the material available on record. Admittedly, the assessment was completed *ex parte* and the appellate order was passed by the Ld. CIT(A) without providing any effective opportunity of hearing. We also find the assessee has alleged that all notices issued by the Ld. CIT(A) were sent to an incorrect email ID not belonging to it. This allegation has not been rebutted by the Revenue before us. In this circumstances, we find merit in the argument of the assessee that no proper opportunity of hearing was granted during the first appellate proceedings, which is against the principles of natural justice. Further, we find that the Ld. CIT(A) rejected the appeal by invoking section 249(4)(b) of the Act for non-payment of advance tax. We find that that the assessee did not file a return of income and did not pay advance tax before filing the appeal before the Ld. CIT(A). However, the assessee has claimed that it is a registered co-operative credit society eligible for deduction u/s 80P of the Act. We are, therefore, of the view that the Ld. CIT(A) should have examined the claim of exemption u/s 80P and its applicability before rejecting the appeal

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as non-admissible. In view of the above, we are of the considered opinion that the matter needs to be restored to the file of the Assessing Officer for *de novo* adjudication. The assessee shall be given a proper opportunity of being heard and to furnish all relevant documents including those substantiating its claim under section 80P of the Act.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

**The order is pronounced in the open Court on 12.08.2025**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

**Sd/-  
(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

Ahmedabad; Dated 12.08.2025  
\*\*btk

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

**True Copy**

**आदेशानुसार/ BY ORDER,**

**सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**