

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B”BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1284/Bang/2025
Assessment Year : 2021-22

Primary Co-op Agriculture Rural Development Bank Ltd. PCA & RD Co-operative Bank Main Road Hosadurga 577 527  <b>PAN NO : AABAP7491A</b>	<b>Vs.</b>	ITO Ward-1 Chitradurga
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Sandeep Chalapathy, A.R.
<b>Respondent by</b>	:	Sri Subramanian S., D.R.

<b>Date of Hearing</b>	:	21.08.2025
<b>Date of Pronouncement</b>	:	26.08.2025

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the order of Id. CIT(A)/NFAC dated 19.3.2025 vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1074700647(1) for the assessment year 2021-22 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

**2. The assessee has raised the following grounds of appeal:-**

1. That the order of the learned lower authorities in so far is prejudicial to the interests of the appellant, is bad and erroneous to the facts and circumstances of the case.
2. That the learned lower authorities erred in law and on facts in confirming the assessment order passed u/s 143(3) of the Act.
3. That the order passed u/s 250 of the Act is bad in law and without jurisdiction.
4. That the learned lower authorities erred in law and on facts in not condoning the delay even though the appellant had sufficient and reasonable cause for the delay in filing such an appeal.
5. That the learned lower authorities erred in law and facts of the case by failing to adjudicate the case on merits.
6. That the learned lower authorities erred in law and on facts in failing to consider the appellant's submissions on the merits of the case.

**3.** Brief facts of the case are that the assessee is a Primary Co-operative Agriculture Rural Development Bank Ltd. The assessee filed its return of income for the assessment year 2021-22 on 4.1.2022 claiming deduction of Rs.1,32,54,484/- u/s 80P(2)(a)(i) of the Act and Rs.50,000/- u/s 80P(2)(c) of the Act. Thus, the total deduction u/s 80P of the Act was claimed to the extent of Rs.1,33,04,484/-. Thereafter, the case was selected for complete scrutiny on the issue of claim of large deduction from total income u/s 80P of the Act. During the course of assessment proceedings, the assessee did not furnish the eligibility of such deduction claimed nor any break up of (i) NPA nor nexus of such (i) operating income & (ii) NPA amounting to Rs. 8,77,515/- & Rs.57,96,000/- respectfully credited to its Profit & Loss Account with the nature of its business activities as specified in the return of income/Tax audit report.

**3.1** The Id. AO completed the assessment by holding that the income of Rs.66,73,515/- (Rs.8,77,515/- + Rs.57,96,000/-) has no nexus with the nature of business activity of the assessee society as specified in its return of income/tax audit report and hence AO held that deduction claimed u/s 80P(2)(a)(i) of the Act amounting to Rs.66,73,515/- is not allowable and added to the income of the assessee. The AO thereafter after adjusting the brought forward business loss of Rs.77,02,097/- relating to assessment year 2015-16 with the current year income of Rs.66,73,515/- and the balance business loss of Rs.10,28,582/- was allowed to be carried forward for future set off. Further, the brought forward business loss of Rs.81,82,260/- relating to the assessment year 2014-15, appearing in the schedule "CFL" of ITR for this year was not allowed for current adjustment since the return was submitted belatedly.

**4.** Aggrieved by the order of assessment passed u/s 143(3) r.w.s. 144B of the Act dated 22.12.2022, the assessee preferred an appeal before the ld. CIT(A)/NFAC.

**5.** The ld. CIT(A)/NFAC dismissed the appeal of the assessee by not condoning the delay in filing the appeal and accordingly held that there is no basis to interfere with the order passed by AO and also inclined to adjudicate the case on merits.

**6.** Aggrieved by the order of ld. CIT(A)/NFAC, the assessee has filed the present appeal before this Tribunal.

**7.** Before us, the ld. A.R. of the assessee vehemently submitted that the manager of the assessee society was under an honest and Bonafide belief that as the assessment order for the AY 2021-22 was passed without any tax demand being raised and therefore, no further action was required to be taken by the society. Further, the local consultant also did not advise the society to challenge the assessment order by way of an appeal. Subsequently, upon receipt of penalty notices, the assessee society realized that the appropriate action ought to have been taken against the assessment order itself and accordingly the assessee society consulted M/s. MSSV & Co., Chartered Accountants, who advised to file the appeal against the assessment order and for this Bonafide reason there was delay in filing the appeal before the ld. CIT(A)/NFAC and accordingly prayed that the delay in filing the appeal before the ld. CIT(A)/NFAC may be condoned and the case may be remitted back to the file of ld. CIT(A)/NFAC to decide afresh on merits in accordance with law.

**8.** The ld. D.R. on the other hand vehemently supported the order of ld CIT(A)/NFAC.

9. We have heard the rival submissions and perused the materials available on record. It is undisputed fact that Id. CIT(A)/NFAC dismissed the appeal of the assessee by holding that the delay in filing the appeal lacks merit for condonation rendering the appeal inadmissible and non-maintainable as it was filed beyond the stipulated time period without sufficient cause. Before us, the assessee filed an affidavit stating therein the reasons for delay in filing the appeal before the Id. CIT(A)/NFAC, which is reproduced below for ease of reference and record:

	<b>MSSV &amp; Co.</b> Chartered Accountants	<i>Regd 2018/05</i>
2021-22//ITAT		20.08.2025
Assistant Registrar, Income-tax Appellate Tribunal, 1 & 2 <sup>nd</sup> Floor, No:51, 1 <sup>st</sup> Cross 4 <sup>th</sup> 'T' Block East, Tilak Nagar Jayanagar Bangalore – 560 041		
Dear Sir,		
Sub: Filing of Affidavit in the case of Primary Co-op Agriculture Rural Development Bank Ltd, Hosadurga - 577527 for the AY 2021-22 Appeal no: ITA 1284/Bang/2025.		
The above case is posted for hearing on 21.08.2025 before 'B' Bench. We are herewith forwarding the Affidavit.		
Kindly acknowledge.		
Thanking you,		
Yours faithfully, for MSSV & Co, Chartered Accountants, <i>Prateek</i> Prateek Marlecha Partner		
Encl: As above		
<hr/> Address : No. 63/2, 2nd Floor, Railway Parallel Road, Kumara Park West, Bangalore - 560020. Telephone : 080 23565065, 080 23565068, 080 23565073 Fax: 080 23565076		

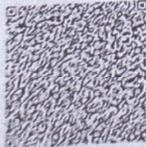
  
भारतम् जयते

**INDIA NON JUDICIAL**

**Government of Karnataka**

**e-Stamp**

Certificate No.	: IN-KA21566674179442X
Certificate Issued Date	: 19-Aug-2025 04:17 PM
Account Reference	: NONACC (FI)/ kacarbb08/ HOSADURGA/ KA-CD
Unique Doc. Reference	: SUBIN-KAKACARDB0857584034199109X
Purchased by	: PRIMARY CO OP AGRI RURAL DEV BANK LTD HOSADURGA
Description of Document	: Article 4 Affidavit
Property Description	: AFFIDAVIT
Consideration Price (Rs.)	: 0 (Zero)
First Party	: PRIMARY CO OP AGRI RURAL DEV BANK LTD HOSADURGA
Second Party	: INCOME TAX DEPT BANGALORE
Stamp Duty Paid By	: PRIMARY CO OP AGRI RURAL DEV BANK LTD HOSADURGA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)









AFFIDAVIT

I, D.SHIVALINGAMMA, daughter of H.K.DURUGESHAPPA, aged about 53 years, working in the capacity of Manager in Primary Co-operative Agriculture Rural Development Bank Ltd, PCA & RD Co-operative bank main road, Hosadurga - 577527, Karnataka, do hereby solemnly affirm and state on oath as under:

1. That I am the Manager of Primary Co-operative Agriculture Rural Development Bank Ltd (hereinafter referred to as "the Society") and I am duly authorized to swear to this affidavit on behalf of the Society.



2. That, based on the records available with the Society, it is understood that the assessment order for Assessment Year 2021-22 was passed under Section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), without any demand being raised, and therefore, no further action was taken by the Society in this regard.

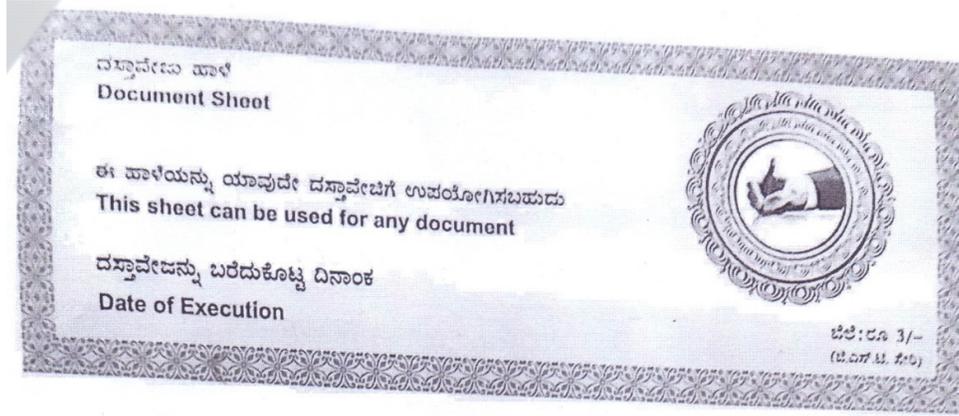
3. That, at the relevant point of time, the Society was availing the services of a local consultant for preparation of accounts and filing of returns. The said consultant also did not advise the Society to challenge the assessment order before the Learned Commissioner of Income Tax (Appeals) by way of an appeal.

4. That, subsequently, upon receipt of penalty notices, the same were forwarded to the said consultant, who filed replies on behalf of the society stating that;

- (i) no demand had been raised in the assessment order, and
- (ii) the Society was eligible for deduction under Section 80P of the Act.

5. That, despite the aforesaid reply, a penalty order was passed in September 2023, whereupon the Society realized that appropriate action ought to have been taken against the assessment order itself. Thereafter, the society consulted M/s. MSSV & Co., Chartered Accountants, who advised that immediate appeals be filed against both the assessment order and the penalty order.

6. That, due to the above circumstances, there was a delay in filing the appeal before the Learned Commissioner of Income Tax (Appeals). The Society had submitted these reasons for condonation of delay before the Learned Commissioner (Appeals).



however, the same was not accepted, and an ex parte order was passed without adjudicating the matter on merits.

7. That, in the facts and circumstances stated hereinabove, it is most humbly prayed that

the Hon'ble Income Tax Appellate Tribunal may be pleased to condone the delay in filing the appeal before the Commissioner of Income Tax (Appeals) and direct that the matter be decided on merits in accordance with law.



DEPONENT

ಬಿ ಶಿವಲಿಂಗಮ್ಮ  
 ವ್ಯವಸ್ಥಾಪಕರು

ಇಳವಳಿ ಸಹಕಾರ ಕೃಷಿ ಮತ್ತು ಇಲಾಖೆ  
 ಸಾಂಪ್ರದಾಯಿಕ ಬ್ಯಾಂಕ್ ನಿ., ಹೂವನೂರು.

I, D.SHIVALINGAMMA, the deponent herein, do hereby verify that the contents of paragraphs 1 to 7 of this affidavit are true and correct to my knowledge and belief. Nothing material has been concealed therefrom.

SWORN TO BEFORE ME

NOTARY  
 RAVINDRA. T  
 Hosadurga Revenue Taluk  
 Date: 19-08-2025

DEPONENT

ಬಿ ಶಿವಲಿಂಗಮ್ಮ  
 ವ್ಯವಸ್ಥಾಪಕರು

ಇಳವಳಿ ಸಹಕಾರ ಕೃಷಿ ಮತ್ತು ಇಲಾಖೆ  
 ಸಾಂಪ್ರದಾಯಿಕ ಬ್ಯಾಂಕ್ ನಿ., ಹೂವನೂರು.

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9.1 On going through the above affidavit, we take a note of the fact that that the manager of the assessee society was under an honest and Bonafide belief that as the assessment order for the AY

2021-22 was passed without any demand being raised and therefore, no further action is required to be taken by the society. The local consultant also did not advise the society to challenge the assessment order by way of filing an appeal. Subsequently, upon receipt of penalty notices, the assessee society realized that the appropriate action ought to have been taken against the assessment order itself and accordingly the assessee society consulted M/s. MSSV & Co., Chartered Accountants, who advised to file the appeal against the assessment order and for this Bonafide reason there was delay in filing the appeal before the Id. CIT(A)/NFAC.

**9.2** Having heard the Id. Counsel for the assessee & the Id. DR, it is perceived that the explanation offered in the above affidavit is plausible and sufficient cause being shown by the assessee, which prevented the assessee society from filing the appeal within the specified period. In our opinion it cannot be said that the assessee is very callous in its approach in filing the appeal before us. Being so, when substantial justice and technical consideration are pitted against each other, the case of substantial justice deserves to be preferred, for the other side cannot claim to have vested right for injustice being done because of non-deliberate delay. Moreover, no counter affidavit was filed by the revenue having the claim made by the assessee. It is not the case of the revenue that the belated appeal was filed deliberately. Therefore, we have to prefer substantial justice rather than technicality in deciding the issue. Therefore, in our opinion, this is a fit case to condone the delay in filing the appeal before the Id. CIT(A)/NFAC. Accordingly, we hereby condone the delay in filing the appeal before the Id CIT(A)/NFAC and accordingly remit the entire issue in dispute to the file of Id. CIT(A)/NFAC to decide on merits afresh in accordance with law. Needless to say, a reasonable opportunity of being heard

must be granted to the assessee. The assessee is also directed to produce all the relevant documents/details/information/records/financials/reports in support of its claim. It is ordered accordingly.

**10.** In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 26<sup>th</sup> Aug, 2025

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 26<sup>th</sup> Aug, 2025.  
VG/SPS

Copy to:

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

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**