IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
(By Virtual Mode)

BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA Nos. 149, 150 & 151/JAB/2025
A.Ys. 2013-14 to 2015-16

Brahtakar Krishi Sakh Sahkari Samiti Maryadit, Sahajpur, Jabalpur, Madhya Pradesh	vs.	Income Tax Officer, Ward-1(3), Jabalpur
PAN:AABAB5293L		
(Appellant)		(Respondent)

Assessee by:	Sh. Sapan Usrethe, Advocate & Sh. Apoorva Agrawal, C.A.
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	21.08.2025
Date of pronouncement:	28.08.2025

O R D E R

PER NIKHIL CHOUDHARY, A.M.

These three appeals have been filed by the assessee against the separate orders of the ld. CIT(A), NFAC passed under section 250 of the Income Tax Act, 1961, dismissing the appeals against the orders of the ld. AO under section 147 r.w.s. 144 of the Income Tax Act, 1961, passed by the ld. AO for the assessment years 2013-14 to 2015-16. The grounds of appeal in the said appeals are as under: -

ITA No.149/JAB/2025

"1. The learned Commissioner of Income tax (Appeal) NFAC was not justified in passing exparte order without appreciating that appellant was prevented with reasonable cause in not filing the response as society was not aware of fixation of case and society was at remote area and are not conversant with income tax and thus appellant was not able to file response.

2. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the disallowance of Rs.29,10,622 which is the deduction claimed by the appellant under section 80P of the act without appreciating that appellant is a sahakari samiti and is maintaining proper books of accounts and deduction claimed under section 80P is allowable to appellant which was denied by the AO on the

ground that appellant have not supplied the documents whereas it was duly filed during the course of hearing.

3. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the disallowance of Rs. 29,10,622 which is the deduction claimed by the appellant under section 80P of the act without appreciating the facts that commission was received from the MP state co-operative marketing federation limited Jabalpur and TDS was also deducted and it is duly reflecting in the Form 26AS and duly shown in the ITR and it was disallowed on frivolous grounds.

4. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the action of AO with regard to the deduction claimed by the appellant under section 80P of the act without appreciating that in subsequent year it was duly allowed by the AO and also by CPC and hence disallowance in the year under consideration is bad in law.

5. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the addition on account of interest of Rs. 18,77,776 without properly appreciating the facts and even otherwise appellant is eligible for deduction under section 80P of the act.

ADDITIONAL GROUND

6. The AO was not justified in passing order under section 147 of the Act without issuing any notice under section 148 as the notice issued under section 148 was not issued to anybody as apparent from the portal.

7. The notice under section 148 of the IT Act is not according to law as it was issued by non-Jurisdictional AO and further notice issued under section 143(2) is also invalid as jurisdiction of appellant is with ITO Ward 1(2), Jabalpur whereas it was issued by ITO 2(1), Thane and hence assessment may kindly be quashed.

8. The notice under section 148 of the IT Act is not according to law as it was issued after six years from the end of the relevant assessment year and hence it is time barred and may kindly be quashed.

9. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."

ITA No.150/JAB/2025

1. The learned Commissioner of Income tax (Appeal) NFAC was not justified in passing exparte order without appreciating that appellant was prevented with reasonable cause in not filing the response as society was not aware of fixation of case and society was at remote area and are not conversant with income tax and thus appellant was not able to file response.

2. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the addition of Rs.40,70,236 which was made by the AO being the difference between interest from Members & others amounting to Rs. 83,23,784/- as against shown in the return of income filed at Rs. 34,53,548 without appreciating

that appellant is have correctly shown the details and further there is having income of loss at Rs.27,448.

3. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the addition of Rs.40,70,236 which was made by the AO being the difference between interest from Members & others amounting to Rs. 83,23,784/- as against shown in the return of income filed at Rs. 34,53,548 without appreciating that appellant is maintaining proper books of accounts and even otherwise appellant is entitled for deduction under section 80P of the act.

4. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the action of AO with regard to the deduction claimed by the appellant under section 80P of the act without appreciating that in subsequent year it was duly allowed by the AO and also by CPC and hence disallowance in the year under consideration is bad in law.

ADDITIONAL GROUND

5. The AO was not justified in passing order under section 147 of the Act without issuing any notice under section 148 as the notice issued under section 148 was not issued to anybody as apparent from the portal.

6. The AO was not justified in passing order under section 147 of the Act without appreciating that notice issued under section 148 of the act is time barred as it was issued on 01.04.2021 and it is also invalid as it was issued under the old regime as from 01.04.2021 act was amended and AO was bound to issue notice under amended act by following the procedure laid down under newely inserted section 148A of the IT Act and this issue is already decided by Hon'ble Apex court in the case of UOI Vs Ashish Agrawal and hence proceeding is liable to be quashed being invalid.

7. The AO was not justified in passing order under section 147 of the Act without appreciating that notice issued under section 148 of the act is invalid as it was issued after 01.04.2021 and as per amended act the approval given by the PCIT is invalid in view of section 151 of the IT Act and this issue is already decided by Hon'ble Apex court in the case of UOI Vs Rajeev Bansal and hence proceeding is liable to be quashed being invalid

8. The notice under section 148 of the IT Act is not according to law as it was issued by non-Jurisdictional AO and further notice issued under section 143(2) is also invalid as jurisdiction of appellant is with ITO Ward 1(2), Jabalpur whereas it was issued by ITO 2(1), Thane and hence assessment may kindly be quashed.

9. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."

ITA No.151/JAB/2025

1. The learned Commissioner of Income tax (Appeal) NFAC was not justified in passing exparte order without appreciating that appellant was prevented with reasonable cause in not filing the response as society was not aware of fixation of case and society was at remote area and are not conversant with income tax and thus appellant was not able to file response.

2. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the addition of Rs.56,36,216 which was made by the AO being the difference between interest from Members & others amounting to Rs. 1,25,08,172/- as against shown in the return of income filed at Rs. 68,71,956 without appreciating that appellant have correctly shown the income.

3. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the addition of Rs.56,36,216 which was made by the AO being the difference between interest from Members & others amounting to Rs. 1,25,08,172/- as against shown in the return of income filed at Rs. 68,71,956 without appreciating that appellant is maintaining proper books of accounts and even otherwise appellant is entitled for deduction under section 80P of the act.

4. The learned Commissioner of Income tax (Appeal) NFAC was not justified in confirming the action of AO with regard to the deduction of Rs.6,35,489 claimed by the appellant under section 80P of the act without appreciating that in subsequent year it was duly allowed by the AO and also by CPC and hence disallowance in the year under consideration is bad in law.

ADDITIONAL GROUND

5. The AO was not justified in passing order under section 147 of the Act without issuing any notice under section 148 as the notice issued under section 148 was not issued to anybody as apparent from the portal.

6. The AO was not justified in passing order under section 147 of the Act without appreciating that notice issued under section 148 of the act is time barred as it was issued on 01.04.2021 and it is also invalid as it was issued under the old regime as from 01.04.2021 act was amended and AO was bound to issue notice under amended act by following the procedure laid down under newely inserted section 148A of the IT Act and this issue is already decided by Hon'ble Apex court in the case of UOI Vs Ashish Agrawal and hence proceeding is liable to be quashed being invalid.

7. The AO was not justified in passing order under section 147 of the Act without appreciating that notice issued under section 148 of the act is invalid as it was issued after 01.04.2021 and as per amended act the approval given by the PCIT is invalid in view of section 151 of the IT Act and this issue is already decided by Hon'ble Apex court in the case of UOI Vs Rajeev Bansal and hence proceeding is liable to be quashed being invalid.

8. The notice under section 148 of the IT Act is not according to law as it was issued by non-Jurisdictional AO and further notice issued under section 143(2) is also invalid as jurisdiction of appellant is with ITO Ward 1(2), Jabalpur whereas it was issued by ITO 2(1), Thane and hence assessment may kindly be quashed.

9. The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."

2. All these appeals have been filed late and the appeals are accompanied by applications for the condonation of delay. It has been submitted that the assessee is

a Society constituted and governed by the provisions of the Cooperative Society Act, 1950, to act as an intermediary between the Statement Government (of Madhya Pradesh) and farmers, for purchase of wheat and paddy on behalf of the M.P. State Civil Supply Corporation Limited and M.P. State Cooperative Marketing Federation, on commission basis. The assessee acts as an intermediary between the branches of Zila Sahkari Kendriya Bank and Farmers to provide cash loans and loans for seeds and fertilizers. It had maintained statutory books of accounts, which were audited by the Auditors of the Cooperative Society, but its claim for deduction under section 80P had been disallowed by the ld. AO in an ex parte order. The assessee Society functions in a remote area and all the Members of the assessee society are villagers who are not conversant with the internet and various legal compliances. For this reason, it was not able to attend to the assessment proceedings and it was also unable to make due compliances before the NFAC in the appeal proceedings. It was submitted that no order of the ld. CIT(A) had been received by the assessee and it was only when it verified the portal that it came to know that an ex parte order had been passed by the NFAC, wherein its appeal had been dismissed for non-compliance. Thereafter, the assessee engaged another counsel at Jabalpur and the new counsel had duly prepared the present appeal. It was submitted that the delay was not intentional and the assessee gained no benefit from such delay. Relying on the judgment of the Hon'ble Punjab & Haryana High Court in the case of Munjal BCU Centre of Innovation & Entrepreneurship, Ludhiana vs. CIT (Exemptions), Chandigarh, it submitted that placing of notices on the e-portal did not amount to service of the same upon the assessee. It also quoted from the judgment of the Hon'ble Supreme Court in the case of N. Balakrishnan vs. M. Krishnamurthy 1998 INSC 345 to argue that since there was no mala fide involved in its action of delay in filing the appeal, the same should be admitted for hearing. It was also submitted that in various cases, it had been held by the Courts that sufficient cause was to receive a liberal construction so as to advance substantial justice. It, therefore, prayed that since it was handicapped in filing the appeal on time, its petition may kindly be accepted and the appeals admitted for adjudication. After considering the

said petition, the fact that the assessee is a Society in a rural area and not well versed with information technology, the delay in filing the appeal is condoned and the case admitted for hearing.

3. The facts of the case are that in all the three assessment years, the assessee did not furnish a return of income. As per the information received by the ld. AO in the F.Y. 2012-13, the assessee received a commission of Rs.53,21,386/- and contractual payment of Rs.18,81,225/-; in the F.Y. 2013-14, it received commission of Rs.36,46,410/- and contractual payment of Rs.11,99,826/- while in the F.Y. 2014-15, it received contractual payment of Rs. 4,20,00,000/- and deposited cash worth Rs.6,10,520/-. Since the assessee had not filed returns in any of these years, notices under section 148 were issued to it. The assessee made due compliance to the notices under section 148. It filed a return for the A.Y. 2013-14 on 21.05.2021 declaring gross total income of Rs.29,10,623/-, a total loss of Rs.27,448/- in respect of the A.Y. 2014-15 and gross total income of Rs.6,35,489/- in the A.Y. 2015-16. In the A.Ys. 2013-14 and 2015-16, after claiming deduction under section 80P of the Income Tax Act, 1961, the assessee filed a Nil return of income. However, since the returns of income that were filed by the assessee were not e-verified by it, the ld. AO issued notice under section 142(1) calling for various details on or before 2.08.2021. While the assessee did not make immediate compliance, it filed a submission on 28.08.2021 in which it was submitted that it was primary co-operative Society which purchased wheat, paddy from its members and gave the same to M.P. State Civil Supply and Vipran Sangh. It was further submitted that it was a Primary Agricultural Cooperative Society, whose objective was to provide credit facilities and marketing facilities to its members of their agricultural produce. It was submitted that it fulfils the conditions mentioned under section 80P and therefore was eligible for claiming the deduction under section 80P of the Act. It attached a computation of income and a copy of its bank statement for perusal. After the case was transferred to the Faceless Assessing Officer, the ld. AO records that three more notices under section 142(1) were issued to the assessee, but none of

them were complied with. Therefore, in view of the non-compliance, the ld. AO decided proceed *ex parte* and complete the assessment of the case in a best judgment manner, by resorting to section 144 of the Income Tax Act, 1961. He observed that the cases have been reopened on the basis of information of receipt of commission and contract income by the assessee with respect to the three years in question. On verification of the return of income filed in response to the notice under section 148, the ld. AO observed, that there were mismatches between the amounts reflected in the return of income under various schedules and in the audited profit & loss account. He detailed the list of contradictions in his assessment order. In the assessment year 2013-14, he came to the conclusion that interest income of Rs.18,77,776/-, had not been offered to tax by the assessee, an interest of Rs.48,70,236/- had not been offered to tax in the assessment year 2014-15 and interest of Rs.56,36,216/- had not been offered to tax in the A.Y. 2015-16. He, therefore, brought all these amounts to tax in the respective assessment years. During the course of assessment, the ld. AO also required the assessee to file a copy of the memorandum of association because he needed to verify the activities carried out by the society. He noted that merely submitting on a piece of paper that the Society was a primary society engaged in activities as submitted was not sufficient. Copies of memorandum of association, byelaws and other documentary proofs like purchase from members, sales to M.P. State Civil Supply Corporation, copies of ledger accounts were required to be submitted but these had not been done. During the course of assessment proceedings, the assessee was also requested to justify the deduction claimed under section 80P amounting to Rs.29,10,622/- in the assessment year 2013-14 and Rs. 6,35,489/- in the assessment year 2015-16. However, the assessee was not able to justify the same. Therefore, the ld. AO disallowed this claim and added these amounts to the income of the assessee in the respective assessment years. In the assessment year 2014-15, as the assessee filed its return beyond the due date laid down under section 139(1), the ld. AO disallowed the net loss of Rs.27,488/- claimed by the assessee.

4. Aggrieved with the assessment orders, the assessee went in appeal to the ld. CIT(A). The ld. CIT(A) records that even though in Form No.35 for the A.Y. 2013-14 stated that written grounds of appeal were enclosed along with other documents, there were in fact no other grounds attached with the appeal documents. Before the ld. CIT(A), in the assessment year 2015-16, the assessee filed written submissions in support of its claim for deduction under section 80P. However, the ld. CIT(A) noted that the appeal was delayed and the assessee had not brought on record any sufficient reasonable cause for the inordinate delay in filing the appeal. Therefore, by relying on the decision of the Rajasthan High Court in the case of Gupta Emeralds Mines (P.) Ltd. vs. PCIT (2023) 156 taxman.com (Rajasthan), he declined to condone the delay in the filing of the appeal and decided to reject that appeal. Besides this, in all three assessment years, the ld. CIT(A) brought on record the fact that he had issued several notices to the assessee to make its submissions with regard to the grounds raised in Form No. 35. However, the assessee failed to comply with all the aforesaid notices and failed to submit documentary evidences in support to the grounds of appeal. He noted that even adjournment applications had not been filed before him. From this, he came to the conclusion that the assessee was not interested in pursuing the grounds of appeal filed by him. The ld. CIT(A), therefore, recorded his decision to dismiss all three appeals of the assessee for want of prosecution. However, the ld. CIT(A) did not pause there. He, thereafter went on to examine the issue on merits. He pointed out that the assessee was a non-filer and its case had been reopened under section147 of the Act. He noticed that it was only in the return filed in response to the notice under section 147 that the assessee had made a claim of deduction under section 80P for the assessment years 2013-14 and assessment years 2015-16. The ld. CIT(A) pointed out that, in view of the provisions of section 80A(5), the pre-condition to claiming a deduction under section 80P, was that the return should be filed on time. Therefore, he held that the assessee was not entitled to the benefits of exemption under section 80(P)(2)(a)(vi). He, therefore, dismissed the appeals of the assessee on merits also.

5. The assessee is aggrieved at these orders passed by the ld. CIT(A) and has accordingly come in appeal before us. Sh. Sapan Usrethe, Advocate & Sh. Apoorva Agrawal, C.A. (hereinafter referred to as the ld. ARs), representing the assessee argued the case before us. It was submitted that the assessee was a primary agricultural credit society that was located in a rural area and where the members were not well versed with the faceless assessment procedure or with information technology systems. As a result, they had not been aware of the fact of notices or the passing of assessment orders. It was further submitted that even though once they were made aware, they had engaged a counsel to file the said appeals, they were handicapped in pursuing such appeals as they were unable to monitor the said notices issued by the ld. CIT(A), NFAC due to their inadequate knowledge of information technology. Accordingly, it was prayed that they had not been able to make effective submissions to bolster their case. It was submitted that the ld. CIT(A) had, while deciding the issue, omitted to consider the fact that section 80AC as it stood before it was amended from the first day of April, allowed for the assessee to claim deduction under section 80P and his decision to therefore, decide the issue against the assessee on merits without hearing the assessee was not justified. It was also submitted that the ld. CIT(A) was unjustified in refusing to accept the appeal of the asessee for the assessment year 2015-16, because the assessee did not have any vested interest in delay in filing the appeal and it was only because it was handicapped in attending to proceedings through the Income Tax Portal, that it could not file the appeal before him on time. The ld. ARs submitted that the assessee deserved an opportunity to make out its case, primarily because it fulfilled all the conditions for grant of 80P and furthermore because its accounts were audited and it was in a position to present proof of its eligibility. It was, therefore, prayed that the matter may be restored to the file of the ld. AO for decision in accordance with law.

6. On the other hand, Sh. Alok Bhura, Sr. DR (hereinafter referred to as the ld. Sr. DR) submitted that the assessee had been given ample opportunities by the ld.

AO and the ld. CIT(A) to represent its case but the assessee had been negligent. It had not even filed its return of income and therefore, it did not deserve to be given a second chance. He accordingly prayed that the appeals may be dismissed and the additions confirmed.

7. We have duly considered the facts and circumstances of the case. While condoning the delay in filing of appeals, we have already held that due its unfamiliarity with the Faceless Assessment Scheme and information technology matters, the assessee was handicapped in filing the appeal on time. Therefore, in view of the same, it is also apparent that it was handicapped in representing its matters before the lower authorities on this account. It is also observed that the ld. CIT(A), while deciding the issue against the assessee on merits has adopted the provisions of section section 80A(5). Section 80A(5) which has been quoted by the ld. CIT(A) simply states that the assessee must make the claim in the return of income filed by it. There is no conditionality in the same that the return had to be filed before the due date as laid down in section 139(1). Infact such provisions are now reflected in 80AC, as it was amended w.e.f. 1.04.2018. Prior to its substitution, section 80AC, as inserted by the Finance Act, 2006, w.e.f. 1.04.2006 and later on amended by the Finance Act, 2007, w.e.f. 1.04.2008 read as under:-

> ***"80AC- Deduction not to be allowed unless return is furnished***
>
> *When in computing the total income of an assessee of the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or any subsequent assessment year, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80IE, no such deduction shall be allowable to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139."*

Thus, it can be seen that prior to the amendment to the Income Tax Act w.e.f. 1.04.2014, there was no condition in section 80AC also, denying the assessee the benefit of deduction under section 80P on the grounds cited by the ld. CIT(A). Therefore, the deduction seems to have been denied to the assessee on an

erroneous presumption of law. It is however, observed that the ld. AO has primarily denied the exemption under section 80P due to failure of the assessee to file any evidences in support of its claim. In view of these circumstances cited by the ld. AR, we feel that in the interest of justice, the matter should be restored to the file of the ld. AO so that the assessee may file the documentary evidences in its possession and the ld. AO may thereafter take a fresh decision in accordance with law, after consideration of such material. Similarly, on the issue of addition of interest income, added by the ld. AO, the assessee may furnish the necessary explanation before the ld. AO so as to enable him to consider the matter afresh. All three appeals are therefore, restored to the file of the ld. AO for *de novo* assessment. The assessee had also preferred some additional grounds in the appeal memo on legal issues relating to the validity of the proceedings and the issue of limitation. However, no arguments were made with regard to the same during the course of hearing. Therefore, as the matter has been restored to the file of the AO, those matters are also being restored to the file of the Ld. Assessing Officer, who may consider and decide them before proceeding with the assessment.

8. In the result, all the three appeals in ITA Nos.149, 150 & 151/JAB/2025 are allowed for statistical purposes.

Order pronounced on 28.08.2025 in the open Court.

Sd/-	***Sd/-***
[KUL BHARAT]	**[NIKHIL CHOUDHARY]**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

DATED: 28/08/2025
Sh
Copy forwarded to:

1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.