

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI RAHUL CHAUDHARY, JM**

**ITA Nos. 559 to 561/Coch/2025  
Assessment Years: 2014-15 to 2016-17**

Kattoor Service Co-op. Bank Ltd. ..... Appellant  
Kattoor P.O., Thrissur 680702  
[PAN: AACAT3937A]

vs.

The Income Tax Officer, WD-2(1), Thrissur ..... Respondent

Assessee by: Shri Amaljith P.J., CA  
Revenue by: Shri Sanjit Kumar Das, CIT-DR

Date of Hearing: 21.08.2025  
Date of Pronouncement: 26.08.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

These appeals filed by the assessee are directed against different orders of the National Faceless Appeal Centre, Delhi (NFAC) dated 13.12.2024 for Assessment Years (AY) 2014-15 to 2016-17.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 559/Coch/2023 for AY2014-15 are stated herein.

4. Brief facts of the case are that the appellant is a co-operative society registered under the Kerala State Co-operative Societies Act, 1969. No regular return of income under the provisions of section 139(1) of the Income Tax Act, 1961 (the Act) was filed by the appellant for AY 2014-15. However, the National Faceless Assessment Centre (hereinafter called "the AO"), based on the information that the appellant made cash deposit formed an opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 of the Act was issued on 31.03.2021. The appellant neither responded to the notice u/s. 148 nor the notices issued u/s. 142(1) of the Act. In the circumstances, the AO was constrained to make best judgement assessment u/s. 144 of the Act assessing the cash deposit of Rs. 25,88,71,177/- as unexplained money of the appellant vide order dated 25.03.2022 passed u/s. 147 r.w.s. 144 r.w.s. 144B of the Act.

5. Being aggrieved, an appeal was filed before the CIT(A) contending that the appellant is eligible for deduction u/s. 80P of the Act and the cash deposits were made out of the money received. All cash deposits are duly recorded in the books of account maintained. The NFAC held that since the appellant had not filed the return of income. In the absence of claim in the return of income deduction u/s. 80P cannot be allowed. Accordingly, confirmed the disallowance claim u/s. 80P. However, as regards cash deposits, the CIT(A) had remitted the issue to the file of the AO for due verification. Thus, the appeal filed by the assessee stands partly allowed.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. At the outset we find that there is a delay of 155 days in filing the present appeal. The appellant filed a petition along with an affidavit seeking condonation of delay in filing the appeal, wherein it is stated that the delay occurred as the appellant did not receive the order under Section 250 for the A.Y 2014-15 issued on 13.12.2024. Only upon receipt of the penalty show cause notice dated 04.06.2024 issued u/s. 271(1)(c), the appellant came to know about the Order u/s 250. Immediately, on 05.06.2025, meeting of the Board of Directors of the Society was convened and decided to file the appeal before the Hon'ble ITAT, Cochin Bench against the Order of the CIT(A). Within 60 days from 04.06.2025, the appellant filed the appeal petition before ITAT Cochin Bench. Therefore, it is prayed that the delay in filing the appeal may be condoned and the appeal may be admitted for adjudication. Having regard to the averments made in the affidavit seeking condonation of delay, in the absence of any evidence contrary, we are of the considered opinion that the appellant society is prevented by sufficient reasonable cause in filing the appeal within the prescribed limit. Accordingly, we condone the delay and admit the appeal for adjudication.

8. The learned counsel for the assessee contended that the addition made u/s. 69A of the Act would only enhance the business profit of the appellant, such business profits qualifies for deduction

u/s. 80P in terms of CBDT Circular No. 37/2016 dated 02.11.2016. It is further submitted that provisions of section 69A have no application since the cash deposits were duly recorded in the books of account of the appellant.

9. On the other hand, the ld. CIT-DR submits that since there was no valid claim made in the return of income, the appellant is not eligible for deduction u/s. 80P and also relied on the decision of the Hon'ble Jurisdictional High Court in the case of Nileshwar Range Kallu Chethu Vyavasaya Thozihilali Sahararana Sangham [2023] 459 ITR 730 (Ker). He further submits that the submission of the appellant that the addition made u/s. 69A qualifies for deduction u/s. 80P cannot not be accepted as the appellant is not eligible for deduction u/s. 80P and not discharged the onus of proving the source of credit.

10. We have heard the rival contentions and perused the material available on record. The issue in the present appeal relates to the eligibility of the assessee for deduction u/s. 80P of the Act. Admittedly, the appellant neither filed return of income under the provisions of section 139(1) nor responded to the notices issued 148 of the Act. Provisions of section 80A(5) mandates that in the absence of valid claim in the return of income, the appellant is not eligible for deduction u/s. 80P of the Act. This issue also stands covered against the assessee by the decision of the Hon'ble Jurisdictional High Court in the case of Nileshwar Range Kallu

Chethu Vyavasaya Thozihilali Sahararana Sangham [2023] 459 ITR 730

(Ker) wherein it was held as under: -

“11. On a consideration of the rival submissions and on a perusal of the statutory provisions, we find that a reading of Section 80A(5) and Section 80AC of the IT Act as they stood prior to 1.4.2018, when the latter provision was amended by Finance Act 2018, would reveal that the statutory scheme under the IT Act was to admit only such claims for deduction under Section 80P of the IT Act as were made by the assessee in a return of income filed by him. That return can be under Sections 139(1), 139(4), 142(1) or Section 148, and to be valid, had to be filed within the due date contemplated under those provisions. Under Section 80A(5), the claim for deduction under Section 80P could be made by an assessee in a return filed within the time prescribed for filing such returns under any of the above provisions. The amendment to Section 80AC with effect from 1.4.2018, however, mandated that for an assessee to get a deduction under Section 80P of the IT Act, he had to furnish a return of his income for such assessment year on or before the due date specified in Section 139(1) of the IT Act. In other words, after 1.4.2018, even if the assessee makes his claim for deduction under Section 80P in a return filed within time under Sections 139(4), 142(1) or Section 148, he will not be allowed the deduction, unless the return in question was filed within the due date prescribed under Section 139(1). Thus, it is clear that the statutory scheme permits the allowance of a deduction under Section 80P of the IT Act only if it is made in a return recognised as such under the IT Act, and after 1.4.2018, only if that return is one filed within the time prescribed under Section 139(1) of the Act. As the return in these cases, for the assessment years 2009- 10 and 2010-11, were admittedly filed after the dates prescribed under Sections 139(1) and 139(4) or in the notices issued under Section 142(1) and Section 148, the returns were indeed non-est and could not have been acted upon by the Assessing Officer even though they were filed before the completion of the assessment.

12. There is yet another aspect of the matter. The requirement of making the claim for deduction in a return of income filed by the assessee can be seen as a statutory pre-condition for claiming the

benefit of deduction under the IT Act. It is trite that a provision for deduction or exemption under a taxing Statute has to be strictly construed against the assessee and in favour of the Revenue. Thus viewed, a failure on the part of an assessee to comply with the precondition for obtaining the deduction cannot be condoned either by the statutory authorities or by the courts.

13. It is in the backdrop of the aforesaid discussion that we must consider the findings of a Division Bench of this Court in *The Chirakkal Service Co-operative Bank Ltd.* [supra]. The findings therein, that appear to suggest that a claim for deduction under Section 80P can be entertained even if it is made in a return filed beyond the time permitted under the IT Act, ignores the perspective that sees the requirement of the claim for deduction being made in a valid return as a pre-condition for obtaining the benefit of the statutory deduction. The said findings also fly in the face of the express statutory provisions that requires the claim to be made in a return filed by the assessee, by which term is meant a valid return under the Act, and therefore have necessarily to be seen as per incuriam. We also find that the subsequent amendments to Section 80AC by the Finance Act 2018 fortifies the view that we have taken for, it makes the claim for deduction under Section 80P conditional on filing a return within the due date prescribed under Section 139(1) of the IT Act. In other words, the pre-condition for claiming the deduction under Section 80P of the IT Act has now been made more stringent by reducing the time available to an assessee for making the claim.”

Respectfully following the decision of the Hon'ble Jurisdictional High Court, we hold that the assessee is not entitled for deduction u/s. 80P of the Act as no valid return of income was filed by the assessee society and the decision of the Hon'ble Jurisdictional High court prevails over the coordinate bench's decision of this Tribunal.

11. As regards the contention of the appellant that the addition made u/s. 69A qualifies for deduction u/s. 80P, the contention of the

appellant cannot be accepted in view of the findings that the appellant society is not eligible for deduction u/s. 80P of the Act. Thus, we do not find any merit in the appeal filed by the assessee.

12. Since identical issues and facts are involved in assessee's appeal ITA Nos. 560 & 561/Coch/2025, our findings in ITA No. 559/Coch/2025 shall apply mutatis mutandis to these appeals also.

13. In the result, the appeals filed by the assessee stand dismissed.

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

Sd/-  
**(RAHUL CHAUDHARY)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 26<sup>th</sup> August, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin