

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री एस बालाकृष्णन, लेखासदस्य एवं श्री संदीप सिंह करहेल, न्यायिक सदस्य के समक्ष
BEFORE SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER
&
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**आयकर अपील सं./I.T.A. No. 225 & 226/VIZ/2023
(निर्धारण वर्ष/ Assessment Years:2015-16 & 2016-17)**

The Eluru Cooperative House Mortgage Society Limited Gopaluvvari Street, Powerpet Station Road R.R.Pet, Eluru, West Godavari – 534002 Andhra Pradesh [PAN: AACAT0060G]	v.	Income Tax Officer – Ward-1 Income Tax Office 23-B-4-6/4, K.K.S. Towers. R.R. Pet Eluru, Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri C. Subrahmanyam, CA
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	15.09.2025
घोषणा की तारीख/Date of Pronouncement	:	18.09.2025

आदेश /ORDER

PER SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

1. The assessee has filed the present appeals against the separate impugned orders of even date 28.06.2023 passed under section 250 of the Income Tax Act, 1961 (in short 'Act') by the Learned Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre, Delhi [hereinafter in short “Ld.CIT(A)”] for the A.Ys. 2015-16 & 2016-17.

2. Since both the appeals pertain to the same assessee involving similar issues, these appeals were clubbed and heard together as a matter of convenience and are being decided by way of this consolidated order.

ITA No. 225/VIZ/2023
(Assessee’s Appeal - A.Y. 2015-16)

3. In this appeal, the assessee has filed the following modified grounds of appeal: -

“1. The order passed u/s 143(3) of the I.T. Act confirmed by the Ld. Commissioner of Income-tax (Appeals) (in short 'CIT(A)') vide order passed u/s 250 of the IT Act is contrary to the provisions of law and facts of the case.

2. The Ld. CIT(A) erred in law in confirming the disallowance of claim of deduction u/s 80P(2)(a)(i) of Rs. 28,81,720/- for the alleged reason that assessee society during the impugned assessment has given loans and taken deposits from outsiders, other than members, is factually incorrect and not borne out of records.

3. The adverse decision of Ld.CIT(A) muddles around the alleged violation of taking deposits from non-members, when in fact there are no such instance of collecting deposits from non-members, as is evident from assessment order itself, in this view of the matter, to this extent, the orders passed by lower authorities are perverse and liable to be quashed.

4. The reliance placed by Ld. CIT(A) in the case of Citizen Co-operative society decided by Hon'ble Apex Court is distinguishable as the facts in that case are quite different.

5. The Ld. CIT(A), under the facts and circumstances of the case, is not correct in confirming the AO action of making addition of interest income of Rs. 26,95,441/- on NPA / overdue loans, ignoring assessee society has been following the practice of recognizing interest income in the year of realization.

6. *For these and such other reasons that are to be urged at the time of hearing of the appeal the appellant prays that the claim made by assessee u/s 80P of the IT Act be allowed and the interest addition is to be deleted in the interest of justice.”*

4. Ground No.1 is general in nature and therefore needs no specification adjudication.

5. Ground Nos. 2, 3 & 4 raised in assessee’s appeal pertain to the disallowance of the deduction claimed under section 80P(2)(a)(i) of the Act.

6. The brief facts of the case pertaining to this issue are that the assessee is a cooperative society registered under the Andhra Pradesh Cooperative Societies Act, with the object of providing credit facilities to its members. For the year under consideration, the assessee filed its return of income on 30.09.2015, declaring a total income of Rs.NIL. The return filed by the assessee was selected for scrutiny, and statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. During the course of assessment proceedings, it was observed that the assessee had declared a net profit of Rs. 28,81,719/- for the year under consideration and the entire amount was claimed as a deduction under section 80P of the Act in the return of income. Accordingly, the assessee was issued show-cause notice seeking i) List of members of society along with addresses; ii) List of associate members along with addresses; iii) List of nominal members along with addresses and iv) List of deposits either brought forward as on 01.04.2014 or accepted during the year along with the addresses of depositors.

7. In response, the assessee furnished written submissions along with a list of members consisting of 9409 Members. As the assessee failed to give a category-wise list as called for, the assessee was asked to produce the Registers of loans, deposits and Members. On verification of the Deposits Register and the Loans Register, during the assessment proceedings, it was noticed that there were a huge number of deposits and loan transactions with non-members. Therefore, it was observed that the assessee society has been collecting deposits from non-members and giving loans to non-members. Accordingly, the assessee was asked to show cause as to why the claim of deduction under section 80P of the Act should not be rejected, as the assessee had violated the principles of mutuality.

8. The Ld. AO, vide order dated 29.12.2017 passed under section 143(3) of the Act, disagreed with the submissions of the assessee and held that the assessee has collected deposits from the non-members and granted loans to the non-members as well as staff members over the years, without the same being members of the society. Thus, the Ld. AO held that the same is in violation of principles of mutuality. Accordingly, the Ld. AO disallowed the deduction amounting to Rs.28,81,719/- claimed under section 80P of the Act.

9. The Ld. CIT(A), vide impugned order, upheld the disallowances made by the Ld. AO under section 80P of the Act by observing as follows: -

“5.2. From the perusal of the Assessment order, it is clear that the appellant society has been collecting deposits from non-members and sanctioning loans to non-members and staff. The judgment of the Hon'ble A. P. High Court in the assessee's own case for the AYs 2007-08 to 2009-10 is also not applicable in the instant case as the facts of the case are different. Hon'ble High court has passed the order in the AYs 2007-08 to 2009-10 in favour of appellant as Ld AO had not brought on record even a single instant of deposit and loan with non -members. However, in the present case many such instances are discussed in the order passed by the Ld AO. Further, the appellant has not followed the principles of mutuality as per the conditions laid down by the Hon'ble supreme Court in the case of CIT vs Bankipur Club (1997). This is very elaborately discussed by the LAO at page 30 of the assessment Order. The Ld AO has further observed that while some of the members are eligible for a share in the surplus of the society and some are not eligible. The depositors do not participate in any mutual activity whereas the borrowers of the housing loans are eligible to receive their share of surplus. Thus, the principle of mutuality fails.

5.3. I have also taken note of the observation of the Ld AO that the fact of the case is akin to facts of the case in the citizen cooperative society decided by the Hon'ble Supreme Court in the Appeal no-10245 of 2017. In the case of the citizen cooperative society decided by the Hon'ble Supreme Court denied the benefit of section 80P of the Act and has held that the activities of the appellant are in violation of the provisions of MACSA under which it is formed, and that the principle of mutuality is missing. I find that the appellant also collected deposits and disbursed loans to the employees of the society, which is not permissible as per the provisions of section 21 of the A.P. Cooperative Societies Act, 1964. I further find that the appellant has distributed the surplus to only 177 members and not to the remaining members of the society. Thus, It is very clear that the society is not covered by the principle of mutuality. Therefore, I hold that the Ld AO is correct in denying the deduction u/s 80P(2)(a)(1) to the appellant. Ground of the appellant is dismissed.”

10. Being aggrieved, the assessee is in appeal before us.

11. During the hearing, the Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the society has two categories of Members i.e., “A” Class Members & “B” Class Members. The Ld.AR submitted that the

“A” Class Members participate in the share capital of the society and are entitled to receive dividends and also have voting rights in the society. Further, these members are eligible to avail loans from the society against the mortgage of the property in favour of the society. As regards “B” Class Members, the Ld.AR submitted that these members pay a nominal membership fee of Rs. 10/-, and thus, are not entitled to receive dividends and have no voting rights in the society. Further, these members are eligible to place Fixed Deposits with the society and, as when required, may avail loans against such deposits. Ld.AR submitted that both categories of members are members of the society and, therefore, loans granted and deposits received from them should not be considered contrary to the objects of the society. Further, by referring to the details of loans granted and deposits received from its members, the Ld.AR submitted that the lower authorities partially considered the details furnished by the assessee, and if such details are considered *in toto*, it would be apparent that the assessee has not transacted with non-members during the year under consideration.

12. Ld. Departmental Representative [hereinafter in short “Ld. DR”] submitted that these contentions are raised by the assessee for the first time, and the details which the assessee is claiming have not been considered by the Ld. AO were not highlighted before the Ld. CIT(A). Therefore, the Ld. DR submitted that this aspect of the matter requires fresh consideration.

13. We have considered the submissions of both sides and perused the material available on record. In the present case, on the basis that the assessee has granted loans and received deposits from non-members, the deduction claimed under section 80P(2)(a)(i) of the Act was denied. In order to support the contention that the deposits received and loans granted were only to the members of the society, the assessee placed on record a declaration issued by the Statutory Auditor, which is reproduced as follows: -

“1. I, J. Radhakrishna, being the Statutory Auditor of Eluru Cooperative House Mortgage Society Limited, Eluru, hereby state as follows:

1. I have audited the books of account of the said Society for the financial years 2014-15 and 2015-16. The accounts for both years were signed by me and the audit certificates were duly issued.

2. The Society has two categories of members, namely:

(a) "A" Class Members:

- Admission to this category requires payment of share capital of Rs.100/-.*
- Members in this category are eligible to avail mortgage loans from the Society for the purpose of constructing or purchasing a residential house property.*
- Loans are granted against the mortgage of the property in favour of the Society.*
- These members are entitled to receive dividends and also have voting rights in the Society.*

(b) "B" Class Members

- Admission to this category requires payment of a membership fee of Rs.10/-.*

- *Upon payment of the said fee, such persons become members of the Society and continuous to be member from such date.*
- *These members are eligible to place fixed deposits with the Society and, as and when required, may avail loans against such deposits.*
- *They are not entitled to receive dividends and have no voting rights in the Society.*

3. *The above categorisation of membership, with the rights, privileges, and conditions to each class of members, is in accordance with the Bylaws of the Society and the provisions of the Andhra Pradesh Cooperative Societies Act.”*

14. Further, we find that as per the Andhra Pradesh Cooperative Societies Act, the term “Member” has been defined to be a member of the society and includes any nominal or associate members. Therefore, in the present case, it is evident that the assessee’s classification of its members as “A” Class Members and “B” Class Members, depending upon the terms of the membership as enumerated in the declaration of the statutory auditor and reproduced in the foregoing paragraph, is in conformity with the provisions of the Andhra Pradesh Cooperative Societies Act.

15. From the perusal of the assessment order, we find that in order to come to the conclusion that the assessee has granted loans and received deposits from its non-members, the Ld. AO has extensively reproduced in its order from Page No.2 to 20 the list of such transactions, and accordingly held that all these transactions are with non-members. On the contrary, during the hearing, the Ld.AR placed on record the list of loans and the list of names of depositors during the year under consideration. On a sample basis, these details are reproduced as follows: -

DEPOSIT LOANS ISSUED DURING F.Y. 2014-15, A.Y. 2015-16									
S.No.	Name	Loan No.	Loan Amount	Loan Date	Admission No.	Admission Date	Temp. Membership No.	Temp. Membership Date	Share Capital Collected (Rs.)
1	V Madhava Rao	5485	353000	04/07/2014	9764	11/04/2016	1170	22/07/2009	10
2	V Madhava Rao	5486	344000	04/07/2014	9764	11/04/2016	1170	22/07/2009	10
3	V Madhava Rao	5487	301000	04/07/2014	9764	11/04/2016	1170	22/07/2009	10
4	B Prabhakara Rao	5500	142000	06/04/2014	9753	11/02/2016	803	05/07/2002	10
5	B Prabhakara Rao	5501	40000	06/04/2014	9753	11/02/2016	803	05/07/2002	10
6	V Madhava Rao	5504	19900	06/07/2014	9764	11/04/2016	1170	22/07/2009	10
7	V Madhava Rao	5505	19900	06/07/2014	9764	11/04/2016	1170	22/07/2009	10
8	B Simhachalam B V Rama Lakshmi	5508	17000	06/11/2014	8444 9798	11/21/2016	1046 674	18/05/2005 11/08/2001	10
9	Y Ratna Durga	5509	25000	06/19/2014	9789	11/19/2016	789	02/05/2002	10
10	B Simhachalam B V Rama Lakshmi	5510	17000	06/19/2014	8444 9798	11/21/2016	1046 674	18/05/2005 11/08/2001	10
11	Eethakota Devasahayam	5512	10000	06/20/2014	9824	11/24/2016	1159	24/03/2009	10
12	V Madhava Rao	5515	100000	06/21/2014	9764	11/04/2016	1170	22/07/2009	10
13	M Sreedevi K Krishna	5147	15000	07/05/2014	7139 9792	11/19/2016	1144	17/09/2008	10
14	Eethakota Devasahayam	5524	15000	07/30/2014	9824	11/24/2016	1159	24/03/2009	10
15	B Prabhakara Rao	5525	140000	07/31/2014	9753	11/02/2016	803	05/07/2002	10
16	B Prabhakara Rao	5526	85000	07/31/2014	9753	11/02/2016	803	05/07/2002	10
17	B Prabhakara Rao	5527	75000	07/31/2014	9753	11/02/2016	803	05/07/2002	10
18	Kareddy Krishna	5530	40000	08/05/2014	9792	19/11/2016	1144	17/09/2008	10
19	T V Subba Rao	5535	30000	08/11/2014	Staff	Not A Member			
20	B Prabhakara Rao	5536	170000	08/12/2014	9753	11/02/2016	803	05/07/2002	10
21	B Prabhakara Rao	5537	127500	08/12/2014	9753	11/02/2016	803	05/07/2002	10
22	V Madhava Rao	5538	100000	8/14/2014	9764	11/04/2016	1170	22/07/2009	10
23	B Prabhakara Rao	5546	90000	09/11/2014	9753	11/02/2016	803	05/07/2002	10
24	V Madhava Rao	5548	450000	9/16/2014	9764	11/04/2016	1170	22/07/2009	10
25	V Madhava Rao	5549	195000	9/16/2014	9764	11/04/2016	1170	22/07/2009	10

16. From the comparative perusal of the aforesaid details, it is evident that the Ld. AO only considered the partial information and the last three columns of the aforesaid details, which provide the information regarding Temporary Membership Number, Temporary Membership Date and share capital collected, were not taken into consideration by any of the lower authorities. Similarly, regarding the deposits received from non-members, we find that the details furnished by the assessee were not entirely taken into consideration, and only partial information was considered by the Ld. AO for coming to the conclusion that the assessee has transacted with non-members. Therefore, in the light of the

facts and circumstances as noted above, since the entire details as submitted by the assessee were not taken into consideration by the lower authorities, and there is also no examination of the fact that the assessee caters to two types of members i.e., "A" Class Members and "B" Class Members, therefore we are of the considered view that the same needs a fresh consideration by the lower authorities in order to arrive at the correct conclusion. Accordingly, we restore this issue to the file of the Ld.AO for *de novo* adjudication after consideration of all the details regarding the grant of loan and receipt of deposits from the members as submitted by the assessee. Further, the Ld. AO is also directed to take into consideration the bylaws of the assessee and the Andhra Pradesh Cooperative Societies Act, in order to decide this issue. With the above directions, the impugned order on this issue is set aside. Needless to mention, no order shall be passed without affording reasonable and adequate opportunity of hearing to the assessee. As a result, Ground Nos. 2, 3 & 4 raised in assessee's appeal are allowed for statistical purposes.

17. The issue arising in Ground No. 5, raised in the assessee's appeal, pertains to the addition of interest on NPA/overdue loans.

18. The brief facts of the case pertaining to this issue are that during the assessment proceedings, the assessee was asked to furnish the computation of interest of Rs. 1.53 Crores. However, the assessee did not furnish any details and submitted that it follows the cash system in respect of interest receipts, and

for all other items, it follows the mercantile system of accounting. The Ld. AO disagreed with the submissions of the assessee and held that, as the assessee has been following the mercantile system regularly, it should have accounted for interest receipts also on the basis of the mercantile system, as the Act does not permit the assessee to follow a hybrid system of accounting. As the assessee has not accounted for interest on the non-recoverable loans, the Ld. AO computed such interest @13.5% of the loan claimed to be a NPA by the assessee and made an addition of Rs.26,95,441/-.

19. The Ld. CIT(A) upheld the findings of the Ld. AO on this issue and deleted the ground raised by the assessee. Being aggrieved, the assessee is in appeal before us.

20. We have considered the submissions of both sides and perused the material available on record. As per the assessee, the loans totalling Rs. 1,99,66,231/- were overdue from its members, and the recovery of these loans was doubtful. Accordingly, the assessee has not recorded the interest therefrom in its books, and the same has been kept in the suspense account. We find that, while deciding a similar issue of taxability of interest on a loan whose recovery is doubtful, the Co-ordinate Bench of the Tribunal in DCIT v. The Gandhi Co-op. Urban Bank Limited, ITA No. 469/VIZ/2012 vide order dated 30.11.2015 observed as follows: -

“7. We have gone through the reason given by the CIT(A) as well as the case laws relied upon by the assessee. The A.R. of the assessee at the time of hearing submitted that the issue is squarely covered by the decision of ITAT Visakhapatnam bench in the case of DCIT Vs. Durga Co-operative Urban Bank Ltd. (supra). We have examined the case law referred by the A.R. in the light of the facts of the present case and find that the ITAT, Visakhapatnam bench in the above mentioned case on similar facts held the issue in favour of the assessee. The relevant portion is reproduced as under:

“10. Turning to the facts of the case before us, the assessee herein is a cooperative bank and it is not in dispute that it is also governed by the Reserve Bank of India. Hence the directions with regard to the prudential norms issued by the Reserve Bank of India are equally applicable to the assessee as it is applicable to the companies registered under the Companies Act. The Hon'ble Supreme Court has held in the case of Southern Technologies Ltd (Supra), that the provision of 45Q of Reserve Bank of India Act has an overriding effect vis-à-vis income recognition principle under the Companies Act. Hence Sec.45 Q of the RBI Act shall have overriding effect over the income recognition principle followed by cooperative banks also. Hence the Assessing Officer has to follow the Reserve Bank of India directions 1998, as held by the Hon i ble Supreme Court.

10.1 Based on the prudential norms, the assessee herein did not admit the interest relatable to NPA advances in its total income. The Hon'ble Delhi High Court in the case of Vasisth Chay Vyapar Ltd. (Supra) has held that the interest on NPA assets cannot be said to have accrued to the assessee. In this regard, the following observations of Hon'ble Delhi High Court in the above cited case are relevant:

"What to talk of interest, even the principle amount itself had become doubtful to recover. In this scenario it was legitimate move to infer that interest income thereupon has not "accrued".

The said decision of the Hon'ble Delhi High Court is equally applicable to the issue in our hands. Accordingly we do not find any infirmity with the decision of the learned CIT (A) in holding that the interest income relatable on NPA advances did not accrue to the assessee. Accordingly we uphold his order.”

8. An identical issue came up for consideration before the ITAT Pune Bench in the case of Vaidyanath Urban Co-op. Bank Ltd. Vs. CIT in ITA No.413/PN/2014 dated 31.3.2015, wherein the ITAT under similar set of facts held as under:

“10. Turning to the facts of the case before us, the assessee herein is a cooperative bank and it is not in dispute that it is also governed by the Reserve Bank of India. Hence the directions with regard to the prudential norms issued by the Reserve Bank of India are equally applicable to the assessee as it is applicable to the companies registered under the Companies Act. The Hon’ble Supreme Court has held in the case of Southern Technologies Ltd (Supra), that the provision of 45Q of Reserve Bank of India Act has an overriding effect vis-à-vis income recognition principle under the Companies Act. Hence Sec.45 Q of the RBI Act shall have overriding effect over the income recognition principle followed by cooperative banks also. Hence the Assessing Officer has to follow the Reserve Bank of India directions 1998, as held by the Hon’ble Supreme Court.

Based on the prudential norms, the assessee herein did not admit the interest relatable to NPA advances in its total income. The Hon’ble Delhi High Court in the case of Vasisth Chay Vyapar Ltd (Supra) has held that the interest on NPA assets cannot be said to have accrued to the assessee. In this regard, the following observations of Hon’ble Delhi High Court in the above cited case are relevant:

What to talk of interest, even the principle amount itself had become doubtful to recover. In this scenario it was legitimate move to infer that interest income thereupon has not "accrued".

The said decision of the Hon’ble Delhi High Court is equally applicable to the issue in our hands. Accordingly we do not find any infirmity with the decision of the learned CIT (A) in holding that the interest income relatable on NPA advances did not accrue to the assessee. Accordingly we uphold his order."

Following the aforesaid discussion, which has been rendered on an identical issue under similar circumstances, we find no reasons to interfere with the ultimate conclusion of the CIT(A) in deleting the impugned addition relating to interest income in respect of NPAs."

9. *The Hon’ble Supreme Court of India, in the case of UCO Bank Vs. CIT had an occasion to consider the issue. The Hon’ble Supreme Court, while dealing with similar issue held as under:-*

“The method of accounting which is followed by the assessee-bank is mercantile system of accounting. However, the assessee considers income by way of interest pertaining to doubtful loans as not real income in the year in which it accrues, but only when it is realised. A mixed method of accounting is thus followed by the assessee-bank. This method of accounting adopted by the assessee is in accordance

with accounting practice. Up to the asst. yr. 1978-79, the CBDT's circular of 6th Oct., 1952 would be applicable; while from the asst. yr. 1979-80, the CBDT's circular of 9th Oct., 1984 is made applicable. In the present case, the assessment was made on the basis of the CBDT's circular of 9th Oct., 1984, since the assessment pertains to asst. yr. 1981-82 to which the circular of 9th Oct., 1984, is applicable. Under sub-s. (2) of s. 119, without prejudice to the generality of the Board's power set out in sub-s. (1), a specific power is given to the Board for the purpose of proper and efficient management of the work of assessment and collection of revenue to issue from time to time general or special orders in respect of any class of incomes or class of cases setting forth directions or instructions, not being prejudicial to assessees, as the guidelines, principles or procedures to be followed in the work relating to assessment. Such instructions may be by way of relaxation of any of the provisions of the sections specified there or otherwise. The Board thus has power, inter al/a, to tone down the rigour of the law and ensure a fair enforcement of its provisions, by issuing circulars in exercise of its statutory powers under s. 119 which are binding on the authorities in the administration of the Act. Under s. 119(2)(a), however, the circulars as contemplated therein cannot be adverse to the assessee. Thus, the authority which wields the power for its own advantage under the Act is given the right to forego the advantage when required to wield it in a manner it considers just by relaxing the rigour of the law or in other permissible manners as laid down in s. 119. The power is given for the purpose of just, proper and efficient management of the work of assessment and in public interest. It is a beneficial power given to the Board for proper administration of fiscal law so that undue hardship may not be caused to the assessee and the fiscal laws may be correctly applied. Hard cases which can be properly categorised as belonging to a class, can thus be given the benefit of relaxation of law by issuing circulars binding on the taxing authorities. If the Board has considered it necessary to lay down a general test for deciding what is a doubtful debt, and directed that all ITOs should treat such amounts as not forming part of the income of the assessee until realized, this direction by way of a circular cannot be considered as travelling beyond the powers of the Board under s. 119. Such a circular is binding under s. 119. The circular of 9th Oct., 1984, therefore, provides a test for recognising whether a claim for interest can be treated as a doubtful claim unlikely to be recovered or not."

10. *Considering the facts and circumstances of the case and also applying the ratios of the judgements discussed above, we are of the view that interest on a loan whose recovery is doubtful and which has not been recovered by the assessee-bank, but has been kept in a suspense account and has not been brought to the P&L a/c of the assessee, could not be*

included in the income of the assessee. The CIT(A) rightly deleted the additions towards interest on NPAs. There is no error or infirmity in the order of CIT(A). Accordingly, we direct the A.O. to delete the additions made towards interest on NPAs.”

21. In the present case, it is an admitted fact that the interest on non-recoverable loans has not been recorded by the assessee and accordingly no deduction under section 80P of the Act was claimed. Therefore, respectfully following the aforesaid decision, the addition of Rs.26,95,441/- made by the Ld.AO and upheld by the Ld. CIT(A) is deleted. As a result, Ground No. 5 raised in assessee’s appeal is allowed.

22. In the result, the appeal by the assessee for the A.Y. 2015-16 is allowed for statistical purposes.

ITA No. 226/VIZ/2023
(Assessee’s Appeal – A.Y. 2016-17).

23. The modified grounds of appeal raised by the assessee in this appeal are as follows: -

“1. The order passed u/s 143(3) of the I.T. Act confirmed by the Ld. Commissioner of Income-tax (Appeals) (in short 'CIT(A)) vide order passed u/s 250 of the IT Act is contrary to the provisions of law and facts of the case.

2. The Ld. CIT(A) erred in law in confirming the disallowance of claim of deduction u/s 80P(2)(a)(i) of Rs. 31,12,237/- for the alleged reason that assessee society has given loans and taken deposits from outsiders, other than members, is factually incorrect and not borne out of records.

3. The adverse decision of lower authorities' middles around the alleged violation of taking deposits from non-members, when in fact there are no such instance of collecting deposits from non-members, as is evident

from assessment order itself, in this view of the matter, to this extent, the orders passed by lower authorities are perverse and liable to be quashed.

4. The reliance placed by Ld. CIT(A) in the case of Citizen Co-operative society decided by Hon'ble Apex Court is distinguishable as the facts in that case are quite different.

5. For these and such other reasons that are to be urged at the time of hearing of the appeal the appellant prays that the claim made by assessee u/s 80P of the IT Act be allowed and further the interest addition is to be deleted in the interest of justice.”

24. The solitary issue that arises for consideration in the present appeal pertains to the allowance of deduction under section 80P of the Act.

25. During the hearing, Ld.AR, by referring to the details, similar to those filed in A.Y. 2015-16, submitted that the Ld. AO, while coming to the conclusion that the assessee has given loans and taken deposits from the non-members, has not considered these details in totality. In all fairness, Ld.AR by referring to Page Nos. 2 to 5 of the assessment order submitted that in this year the assessee has also granted loans to its staff members who were not members of the society and do not fall under any of the categories, i.e., “A” Class Members or “B” Class Members. Accordingly, Ld.AR submitted that, if at all, the disallowances under section 80P of the Act should be restricted to the loans granted to the staff members only.

26. On the contrary, Ld. DR reiterated the submissions made in assessee’s appeal for the A.Y. 2015-16.

27. As we have already considered a similar issue in the assessee's appeal for the A.Y. 2015-16, accordingly, our findings/conclusions as rendered therein shall apply *mutatis mutandis* to the present appeal, and this issue is restored to the file of Ld. AO for *de novo* adjudication after considering the details filed by the assessee in totality. Insofar as the loans given to the staff members, having considered the submissions of the Ld.AR and perusal of the material available on record, we uphold the addition made by the Ld. AO to the extent of such loans. Accordingly, the grounds raised by the assessee are partly allowed for statistical purposes.

28. In the result, the appeal by the assessee for the A.Y. 2016-17 is partly allowed for statistical purposes.

29. To sum up, the appeal by the assessee for the A.Y.2015-16 is allowed for statistical purposes, while the appeal for the A.Y.2016-17 is partly allowed for statistical purposes.

Order pronounced in the open court on 18th September, 2025.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Dated :.18.09.2025

Giridhar, Sr.PS

Sd/-

(संदीप सिंह करहेल)

(SANDEEP SINGH KARHAIL)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **The Eluru Cooperative House Mortgage Society Limited**
Gopaluvuri Street, Powerpet Station Road
R.R.Pet, Eluru, West Godavari – 534002
Andhra Pradesh
2. राजस्व / The Revenue : **Income Tax Officer – Ward-1**
Income Tax Office
23-B-4-6/4, K.K.S. Towers. R.R. Pet
Eluru, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam