

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

(Through Virtual Hearing)

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.535/RPR/2025

निर्धारण वर्ष /Assessment Year : 2017-18

Shri Durga Gram Service Co-Operative Society Limited
Village: Merhana Ghumarwin,
Bilaspur, Himachal Pradesh-174 028
PAN: AAGAS5856D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-Bilaspur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Bhavesh Jindal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 08.10.2025

घोषणा की तारीख / Date of Pronouncement : 09.10.2025

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 13.03.2025 for the assessment year 2017-18 as per the grounds of appeal on record.

2. At the very outset, the Ld. Counsel for the assessee submitted that the present appeal is time barred by 97 days. Elaborating the reasons leading to the said delay, the Ld. Counsel has filed condonation petition a/w. affidavit dated 17.09.2025. For the sake of completeness, the contents of the condonation application are culled out as follows:

Sub: Request Application for condonation of delay in filing appeal

With regard to the captioned subject, it is humbly submitted that the Society is engaged in the Charitable activities of distribution of food grains, agriculture produces, ration, etc. in remote areas of Himachal Pradesh and has also helped enormously during the time of covid-19 and whenever floods occur and is further helped by the Government by way of receiving food grains, agriculture produces, ration, etc. at discounted prices.

Further, the assessment case of the Society for the Assessment Year 2017-2018 was fixed before the Income Tax Officer, Bilaspur, Chhattisgarh even when the Society is located in Himachal Pradesh. The place named Merhana, where the Society is located, is not at all technologically advanced and that even in present time, the Society prepares the entire documentation i.e. books of accounts and other records manually and moreover the majority of the Society members are retired and are above the age of 60. The Society is not well versed with the Faceless Mechanism and accordingly was not aware about notices issued to it and in fact the Society created its login on the Income Tax Portal only in 2019, much after the notice under Section 142(1) of the Act in case of the assessment proceedings was issued.

The Society furnished all the documents to the Counsel during the course of assessment proceedings, as were called by him, to cooperate with the Income Tax Department, which were further furnished to the Assessing Officer, but the Assessing Officer rejected the claims of the Society and made an addition in the case of the Society by passing an Assessment Order.

Further, the Society filed an appeal against the above said Assessment Order before the Learned Commissioner of Income Tax (Appeals). During the course of first appellate proceedings, the Society was regularly submitting documents to its erstwhile counsel and was always under a presumption that the proceedings before the authorities are duly attended and that this is appreciated by the fact that even the email ID mentioned for the purpose of communication in Form 35 attached along with the present appeal is that of the counsel of the Society (appearing before the first appellate authority) due to non-technological advancement in the area of the Society.

However, it was only recently that the Society, while asking about the status of the case from its counsel, came to know that the first Appellate order has been passed against Society (Order being received by the counsel on his email id), that it approached the new counsels named CA Gaurav Sharma and CA Bhavesh Jindal.

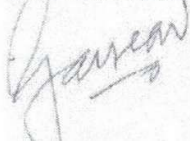
Now, with the guidance of the new counsels, the Society had filed an appeal before the Hon'ble Bench vide appeal reference number ITA 535/RPR/2025 on 5th September 2025 vide acknowledgement number 1800035164, against the order of the Learned Additional Commissioner of Income Tax (Appeals)-1 passed under section 250 of the Income-tax Act, 1961 ('Act') dated 13 March 2025.

There is a delay of 97 days in filing the present appeal. It is submitted that it was not a deliberate attempt on the Society's part to avoid or not cooperate in any proceedings before the authorities, and it was only (1) the non-awareness of the faceless / online proceedings due to technological non-advancement, (2) reliance on the counsel appearing before the first appellate authority that he will inform about the Order of the first appellate authority himself, (3) email id of the counsel being registered with the first appellate authority for receiving notices and order, (4) owing to the fact that the concerned persons of the Society are retired persons aged above 60 years, and (5) the fact that the Society is engaged in pure charitable activities by its members, that the present appeal could not be preferred in time.

It is submitted that having regard to the five facts mentioned in point (13) above, it is requested to the Hon'ble Bench to condone the delay in the case of the society. The Affidavit of the Secretary of the Society stating above facts is enclosed herewith.

Thanking You
Yours Faithfully

CA: GAURAV SHARMA



On a perusal of the condonation application a/w. affidavit in respect of the captioned appeal, I am of the considered view that the reasons for delay involved in the captioned appeal is purely circumstantial and there is no malafide or deliberate conduct on the part of the assessee. Further, the revenue has failed to bring on record any evidence which suggest that there was any lackadaisical approach on the part of the assessee. That at the same time in the issue of delay a liberal and judicious approach must be adopted also as has been held by the Hon'ble Apex Court in a recent judgement. The **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025**

[Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025, had observed that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the Hon'ble High Court of Chhattisgarh in the case of **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025,** after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay.

3. That in the recent judgment of the **Hon'ble Supreme Court** in the case of **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025,** the Hon'ble Apex Court while interpreting Section 5 of the Limitation Act, 1963 regarding the condonation of delay in respect of case of land acquisition has observed and held on the aspect of delay that although the delay cannot be condoned without sufficient cause, the merits of the case could not be discarded solely on the ground of delay. A liberal approach, therefore, should be taken in condoning the delay when limitation ground undermines the merits of the case and obstructs the substantial justice. In other words, the objective of the court

should be to deliver substantial justice coupled with liberal and judicious approach while deciding the issue of limitation and whenever it is found that the case has merits which needs to be addressed substantially, in such case, the delay should be condoned. Accordingly, the said delay of 97 days involved in the captioned appeal is condoned.

4. The relevant facts in this case are that the assessee is a primary agriculture credit society and is providing loan facility to its members. It is also providing PDS and fertilizer items to its members. The first disallowance was made by the A.O u/s.80P(2)(a)(iv) of the Income Tax Act, 1961 (for short 'the Act') of Rs.1,68,101/-. It was observed by the A.O in the assessment order that the assessee is providing PDS and fertilizer at government rate to its member. That as per Section 80P(2)(a)(iv) of the Act, income earned by the assessee by way of purchasing agricultural seeds, livestock and other articles intended for agriculture for the purpose of supplying to its members is qualified for deduction as per the said provisions. However, income from PDS item will fall outside the purview of this provision and hence, the said income was treated as regular income beyond the scope of deduction u/s.80P(2)(a)(iv) of the Act and added to the income of the assessee. The same was confirmed by the Ld. CIT(Appeals)/NFAC.

5. Having heard the submissions of the parties herein and considering the entire documents on record, I am of the view that admittedly the assessee is also procuring fertilizers and agriculture products to be given to its members and to that extent, there is compliance as per Section 80P(2)(a)(iv) of the Act. However, with regard to the addition on account of PDS items, it has been contended by the Ld. Counsel for the assessee that the department could not add the entire gross receipts and the expenses needs to be deducted therefrom and the net resultant amount can only be subject to tax.

6. The Ld. Sr. DR submitted that in such case, the matter should be examined by the A.O to the extent of expenses that have been incurred as against gross receipts in respect of PDS items.

7. Considering the aforesaid facts and circumstances and as per submissions of the parties herein, this issue is remanded to the file of the A.O for identifying the expenses as against gross receipt from PDS items and after determining the same, the net resultant value shall be addressed for the purpose of taxation. Hence, the ground pertaining to this issue stands allowed for statistical purposes.

8. The other addition made by the A.O is with regard to interest income earned from State Co-operative Bank which has been disallowed

u/s.80P(2)(d) of the Act. The A.O held that as per Section 80P(2)(d) of the Act, a Co-operative Credit society is qualified for deduction with regard to any income earned by way of interest derived from investments with any other Co-operative societies. However, interest income earned from any other Co-operative bank shall not qualify for deduction u/s.80P(2)(d) of the Act.

9. Coming to the issue of deduction u/s. 80P(2)(d) of the Act, it is crystal clear from the aforesaid provision that though co-operative banks, other than primary agricultural credit society or a primary co-operative agricultural and rural development bank, are not eligible for deduction pursuant to insertion of section 80P(4) w.e.f. 1.4.2007, but this provision does not deny the otherwise eligibility u/s.80P(2)(d) of the Act of a co-operative society on interest income on investments/deposits parked with a co-operative bank, which is a registered co-operative society as per section 2(19) of the Act, defining co-operative society to mean a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the time being in force. The assessee is also a Cooperative society registered, hence, qualify for grant of deduction u/s. 80P(2)(d) of the Act. The aforesaid view has been held by the Co-ordinate Bench of the Tribunal, Pune in the case of **Marathawada Krishi Vidyapeeth Karmachari Sahakari Patsanstha Ltd. & Anr. Vs. Pr.**

Commissioner of Income Tax & Anr., (2022) 66 CCH 0402. Similar view has been taken by the ITAT, “SMC” Bench, Panaji in the case of **the Sesa Goa Employees Coop. Credit Society Ltd. Vs. ACIT, Circle-2(1), Panaji, ITA No. 203/PAN/2019, dated 16.11.2022.**

10. Further, in the case of **the Bhandari Co-op. Credit Society Ltd. Vs. ITO, Ward-1(5), Panaji, ITA Nos. 101 & 102/PAN/2023, dated 20.09.2023,** the issue was with regard to deduction claimed u/s. 80P(2)(a)(i) as well as under the provisions of section 80P(2)(d) of the Act for interest income earned from investment with Co-operative banks. The Tribunal had referred to the case of **Lokmangal Nagri Sahakari Path Sanstha Maryadit Vs. PCIT in ITA No.231/PUN/2022 for A.Y. 2017-18, order dated 29.11.2022** a/w. other judicial pronouncements which supports the assessee’s claim. The Tribunal in the aforesaid case held that the interest income earned by the Co-operative society from the Co-operative banks qualifies for deduction u/s.80(P)(2)(d) of the Act. Respectfully following the aforesaid decisions, on the same parity of reasoning, this ground of appeal stands allowed.

11. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in open court on 9th day of October, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 9th October, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur