

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Visakhapatnam Bench**

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**  
**AND**  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

आयकरअपीलसं./I.T.A.No.426/Viz/2025  
(निर्धारण वर्ष/ Assessment Year: 2017-18)

No H1043 Bhujabalpatnam Primary Agriculture Cooperative Credit Society Ltd. D.No.1-26, Bhujabalapatnam Village, Krishna District.  PAN : AADAN1163F	Vs.	The Income Tax Officer, Ward-1, Gudivada.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K. Siva Rama Kumar, C.A. (HYBRID)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	14.10.2025
घोषणा की तारीख/ Date of Pronouncement	:	17.10.2025

**ORDER**

**PER MANJUNATHA G., A.M :**

This appeal filed by the assessee is directed against the order of the learned Addl/Joint Commissioner of Income Tax

(Appeals) - 4, Chennai (for short "Ld.CIT(A)") relating to the assessment year 2017-18.

2. At the outset, there is a delay of 69 days in filing the appeal before the Tribunal. The petitioner/appellant society has filed an affidavit explaining the reasons for the delay in filing the appeal before the Tribunal, wherein it was submitted that the order passed by the Ld. CIT(A) was sent to the email of its then AR, CA B.V. Rao, instead of its email "KRISHNAPACS085@GMAIL.COM," as had been requested by it. The appellant society came to know of the order only when ITD officials called upon it to pay the tax arrears. It further submitted that, due to the above circumstances beyond its control and prayed that the delay of 69 days in filing the appeal before the Tribunal may please be condoned in the interest of justice and that the appeal be decided on merits.

3. Dr. Aparna Villuri, Sr. AR for the Revenue, on the other hand, did not strongly oppose the condonation of delay in view of the reasonable cause explained by the petitioner.

4. We have heard both the parties and perused the petition and affidavit filed by the petitioner seeking condonation of delay of

69 days in filing the appeal before the Tribunal. We find that, the reasons explained by the petitioner in its affidavit appear to be genuine and bonafide and come under reasonable cause. We find that, the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. MST Katiji [1987] 167 ITR 471 (SC) has laid down certain principles for condoning the delay and also directed that a lenient approach should be followed to avoid dismissal of meritorious cases on technical grounds. Going by the principles laid down in MST Katiji (supra), and also considering the submissions of the petitioner, we condone the delay of 69 days in filing the appeal before the Tribunal and admit the appeal for adjudication.

5. The appellant/assessee is a Primary Agricultural Cooperative Society engaged in the business of providing credit facilities to its members. The assessee has not furnished its return of income for the assessment year 2017-18 on or before the due date under Section 139(1) of the Income Tax Act, 1961. The Assessing Officer (A.O.) observed that as per the information in the possession of the department, the assessee has deposited cash of Rs.57,49,000/- in bank account held with Krishna District

Central Cooperative Bank, Kaikaluru during the demonetization period. A notice under Section 142(1) of the Act, dated 24-11-2017, was issued and served on the assessee, calling for the return of income. However, the assessee did not comply with the said notice and file the return on or before the dates specified in the notice. In view of the above, a notice under Section 144 of the Act, dated 13-06-2019, was issued. In response to the above notice, the assessee furnished the information such as trading account, profit and loss account, income and expenditure account and balance sheet as on 31-03-2017, and also filed a comparative statement for cash deposits and cash sales.

6. The A.O., on the basis of information submitted by the assessee, observed that the assessee, without any valid return of income, has claimed deduction under Section 80P(2)(a)(i) of the Act. Therefore, a show-cause notice dated 21-11-2019 was issued and called upon the assessee to explain as to why the deduction claimed under Section 80P(2)(a)(i) shall not be disallowed. In response to the show-cause notice, the assessee filed its return of income on 15-12-2019, admitting total income of Rs. Nil after claiming deduction under Section 80P(2)(a)(i) of the Act. The A.O.,

after considering the relevant return filed by the assessee, observed that, the return of income furnished by the assessee belatedly is an invalid return and non-est in the eye of law. Therefore, for not claiming deduction under Section 80P(2)(a)(i) in the return of income on or before the due date provided under Section 139(1) of the Act, the A.O. denied the deduction and made addition of Rs.12,71,701/- in the hands of the assessee.

7. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A).

8. Before the Ld. CIT(A), the assessee reiterated its submissions and argued that it has furnished a valid return of income in response to the notice under Section 142(1) of the Act, although belatedly, but before the assessment was completed, claiming deduction under Section 80P(2)(a)(i) of the Act, but the A.O., without considering the return of income, denied the deduction. Therefore, the assessee submitted that the deduction claimed under Section 80P(2)(a)(i) should be allowed. The Ld. CIT(A), after considering the relevant submissions of the assessee and also taking note of the fact that the assessee has not furnished the

return of income on or before the due date under Section 139(1) of the Act, and also notice under Section 142(1), held that, in the absence of claiming deduction in the return of income filed on or before the due date under Section 139(1) of the Act, the deduction claimed under Section 80P(2)(a)(i) cannot be allowed in view of the provisions of Section 80A(5) of the Act.

9. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

10. The learned counsel for the assessee Shri K. Siva Rama Kumar, C.A. submitted that the Ld. CIT(A) erred in sustaining the addition made by the A.O. towards disallowance of deduction under Section 80P(2)(a)(i), even though the assessee has claimed the said deduction in the return of income filed on 15-12-2019, although belatedly, before the A.O. had completed the assessment under Section 143(3) of the Act. The learned counsel for the assessee further submitted that this issue is squarely covered by the decision of the ITAT Visakhapatnam Bench in the case of The Machilipatnam Postal Dept & GDS Coop Credit Society Limited No.H164, Machilipatnam Vs. ITO in ITA No.249/Viz/2025

dt.10.06.2025 wherein under identical set of facts, the deduction claimed under Section 80P(2)(a)(i) of the Act, was allowed.

11. The learned counsel for the Revenue, on the other hand, supporting the order of the Ld. CIT(A) submitted that, as per the terms of Section 80AC, read with Section 80A(5), filing the return of income on or before the due date under Section 139(1) is mandatory for claiming deduction under Section 80P(2)(a)(i) of the Act. Since the assessee has not made a claim of deduction under Section 80P(2)(a)(i) in the return of income filed on or before the due date provided under Section 139(1) of the Act, the A.O. has rightly denied the deduction. The Ld. CIT(A) after considering relevant facts, has rightly upheld the order of the A.O. Therefore, it was submitted that the order of the Ld. CIT(A) should be upheld.

12. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. There is no dispute with regard to the fact that the assessee has not furnished the return of income on or before the due date provided under Section 139(1) of the Act, and also on or before the due date specified in the notice issued under Section

142(1) of the Act but the assessee has furnished the return of income and claimed deduction under Section 80P(2)(a)(i) of the Act, in the return of income furnished on 15.12.2019 which was filed before the A.O. completed the assessment under Section 144 of the Act, dated 23-12-2019. In other words, there was a return of income before the A.O. in which the assessee claimed deduction under Section 80P(2)(a)(i) of the Act. The A.O. denied deduction under Section 80P(2)(a)(i) of the Act, solely on the basis that unless the return of income is furnished under Section 139(1) of the Act, the assessee cannot claim deduction under Section 80P(2)(a)(i) of the Act. In other words, the A.O. denied the deduction for not furnishing of the return of income; however not disputed the fact that, the assessee is eligible for claiming deduction under Section 80P(2)(a)(i) of the Act. Therefore, it is necessary for us to examine the claim of the assessee in light of the relevant provisions of Sections 80P(2)(a)(i) r.w.s. 80A(5) and Section 80AC of the Act.

13. The assessee being Primary Agricultural Cooperative Credit Society is eligible for deduction u/s 80P(2)(a)(i) of the Act in respect of its income, including interest income, dividend income,

rent etc. The only condition for allowing deduction is that the assessee must furnish return of income and make a claim for deduction u/s 80P(2) of the Act. The A.O. denied deduction on the basis of Section 80A(5) of the Act. Section 80A(5) deals with deduction provided in respect of certain incomes including deduction u/s 80P of the Act, and as per the said deduction when assessee fails to make a claim in the return of income, then no deduction shall be allowed to him thereunder.

14. The provisions of Section 80AC deal with furnishing the return of income on or before the due date under Section 139 of the Act, for claiming deductions in respect of certain incomes, including deductions under Section 80P of the Act. As per the provisions prevailed before the amendment from 01-04-2018, it was only in respect of deduction under Section 80-IA to Section 80-IE, the condition of furnishing the return of income was made mandatory. Further, it was only after the amendment that the deduction provided under the heading "C-Deductions in respect of certain incomes" was inserted. In other words for claiming deduction under Section 80P(2)(a)(i) of the Act, there was no mandatory condition for furnishing the return of income on or

before the due date under Section 139(1) of the Act. In the present case, the A.O. denied the deduction by considering the provisions of Section 80A(5) r.w.s 80AC, even though for the impugned assessment years, both the provisions are not mandatory for filing the return of income under Section 139(1) for claiming deduction. In other words, for the assessment year under consideration, for claiming deduction under Section 80P, the only condition is that the assessee must file the return of income making a claim for deduction under Section 80P(2)(a)(i) of the Act.

15. In the present case, although the assessee filed the return of income belatedly, but filed return of income before the A.O. completed the assessment and made a claim under Section 80P of the Act. Therefore, in our considered view, the A.O. erred in disallowing the claim of deduction under Section 80P(2)(a)(i) of the Act. The Ld. CIT(A) without considering relevant facts, simply made the addition. Thus, we set aside the order of the Ld. CIT(A) and direct the A.O. to delete the additions made towards disallowance under Section 80P(2)(a)(i) of the Act.

16. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 17<sup>th</sup> October, 2025.

<b>Sd/-</b> (श्री रवीश सूद) <b>(RAVISH SOOD)</b> <b>न्यायिक सदस्य/JUDICIAL MEMBER</b>	<b>Sd/-</b> (मंजूनाथ जी) <b>(MANJUNATHA G.)</b> <b>लेखा सदस्य/ACCOUNTANT MEMBER</b>
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Hyderabad, dated 17.10.2025.

**TYNM/sps**

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

1.	निर्धारिती/The Assessee	:	No H1043 Bhujabalpatnam Primary Agriculture Cooperative Credit Society Ltd. D.No.1-26, Bhujabalapatnam Village, Kaikaluru Mandal – 521340, Krishna District, Andhra Pradesh.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward-1, Gudivada.
3.	The Principal Commissioner of Income Tax, Vijayawada.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Visakhapatnam.		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad