

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 88/KOL/2025
Assessment Year: 2018-19**

Madhya Shikarpur Charalkhali SKUS Ltd.	Vs.	Addl/Joint/Deputy/Asst CIT, Delhi, National e- Assessment Centre, Delhi [I.T.O., Ward-41(3), Nadia]
(Appellant)		(Respondent)
PAN: AADAM6887F		

Appearances:

Assessee represented by : P.K. Ray, Adv. and
Ripan Haldar, Adv.

Department represented by : Kallol Mistry, JCIT, Sr. DR.

Date of concluding the hearing : 29-July-2025

Date of pronouncing the order : 21-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2018-19 dated 06.04.2023, which has been passed against the intimation order u/s 143(1) of the Act, dated 04.07.2019.

1.1. The Registry has informed that the appeal filed by the assessee is barred by limitation by 563 days. An application seeking condonation of delay has been filed by the assessee stating as under:



“1. That an appeal has been preferred by the appellant before Hon'ble Income Tax Appellate Tribunal, Kolkata against the order of the Ld. Commissioner of Income Tax (NFAC), Delhi for relating uphold assessment order under section 143(1) for the Assessment year 2018-19 in respect of order under section 250 of the Income Tax Act, 1961.

2. The said Orders of the Ld. Commissioner of Income Tax (NFAC), Delhi was passed & received on the same date by mail. Therefore, the appeal should have been instituted within 60 days from receipt of such order i.e., on or before 05.06.2023.

3. But the appeal shall file on or after 13.01.2025 through physically with a prayer for delay condonation of more or less 589 days.

4. The reasons for such delay are submitted as under:

a) That the Appellant has governed by the Ld. Additional Registrar of Cooperative Society, District Nadia as well as the Ld. Registrar of Co-operative Society, W.B., Department of Cooperative, Govt. of West Bengal, so, it is essential for permission / approval from above the respective authority for filling an appeal before any adjudicating Authority as per principal of law and procedure of administrative work of statutory Body i.e. Executive Committee of the Appellant.

b) That the Appellant is a Primary Agricultural Cooperative is a registered Co-operative Society Act, it is carrying on Agricultural Marketing Co-operative Society since the date of inception and it is also that the entire transaction within the members of the Co-operative Society for the development territorial jurisdiction of the Co-operative as per rules of West Bengal Co-operatives Society Act.

c) That the Appellant has governed by the Ld. Additional Registrar of Cooperative Society, District Nadia as well as the Ld. Registrar of Co-operative Society, W.B., Department of Cooperative, Govt. of West Bengal, so, it is essential for permission / approval from above the respective authority for filling an appeal before any adjudicating Authority as per principal of law and procedure of administrative work of statutory Body i.e. Executive Committee of the Appellant.

d) That the Appellant himself could not take decision for filling appeal before your Lordship for justice in connection of uphold assessment order under section 143(1) for the Assessment year 2018-19 in respect of order section 250 of the Income Tax Act, 1961 in due Course i.e. within time limit as herein above.

e) That the Appellant applied on 22.08.2023 for condonation of delay under clause (b) of sub-section (2) of section 119 of the Income Tax Act, 1961 as



per circular No. 13/2023, dated on 26.07.2023 of Central Board of Direct Tax (CBDT).

f) That the Appellant received a rejection order condonation of delay under clause (b) of sub-section (2) of section 119 of the Income Tax Act, 1961 in application of the Appellant on 02.12.2024 after 16 months from the date of application where as under para 7 of the circular No. 13/2023, dated on 26.07.2023 where as specified as:

“7. The CCslT/DGslT shall preferably dispose the application within three months from the end of the month in which such application is received from the applicant or transferred by the Board. No order rejecting the application under section 119(2)(b) of the Act shall be passed without providing the applicant an opportunity of being heard.”

On the above circumstances, the Appellant could not take necessary action for further action in against demand raised assessment under section 143(1) as well as uphold demand under section 250 of the Income Tax act, 1961 for the Assessment year 2018-19. So, the Appellant could not file appeal before your Lordship for justice in connection of uphold assessment order under section 143(1) for the Assessment year 2017-18 in respect of order under section 250 of the Income Tax Act, 1961 on 06.04.2023. All these have caused delay in filing the appeal in time.

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(Some dates with details are mentioned)

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5. As there was no malafide intention and delay was only due to the aforementioned reasons. Due to such reasons only, the appellant was prevented in filing of the appeal in time. Therefore, it is requested that as the delay is not intentional, the delay of more or less 561 days occurred in filing of appeal may kindly be condoned and appeal may kindly be admitted for rendering substantial justice.”

1.2. Considering the application for condonation of delay and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.



2. The assessee is in appeal before the Bench raising the following grounds of appeal:

“1. That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in confirming action of CPC Bengaluru by holding that claim made by the Appellant was "Incorrect claim as per Sec. 143(1) of the Income Tax Act, 1961.

2 That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in confirming action of CPC Bengaluru by disallowing claim of deduction of ₹16,27,104/- by failing to appreciate that provisions of under section 143(1)(a)(v) of the Income Tax Act, 1961 do not provide for denial of deduction under section 80P of the Act when the return of income is not filed within time allowed under section 139(1) read with under section 139(4) of the Income Tax Act, 1961.

3. That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in upholding action of the CPC Bengaluru in making adjustment to the returned income of the Appellant by way of an intimation under section 143(1) of the Income Tax Act, 1961 and in denying the benefit of under section 80P of the Income Tax Act, 1961 of ₹16,27,104/- to the Appellant by failing to appreciate that this was not a prima facie adjustment permissible under section. 143(1)(a) of the Income Tax Act, 1961.

4. That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in not adjudicating ground of disallowance of claim of deduction of ₹16,27,104/- under section. 80P of the Income Tax Act, 1961.

5. That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi erred in disallowing the claim of deduction under section 80P of the Income Tax Act, 1961 without appreciating the facts and nature of the Appellant as well as the entire transaction within member of the Appellant.

6. That, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi has erred in relying on various case laws, which are not at all applicable to the Appellant's case.

The aforesaid grounds are without prejudice to each other and the appellant craves leave to delete/alter and/or amend any of grounds as aforesaid as and when necessary.”

3. Brief facts of the case are that the assessee, Madhya Shikarpur Charalkhali SKUS Ltd. is a cooperative Society and had filed its return

of income showing 'NIL' income after claiming deduction u/s 80P(2)(a)(i) of the Act of ₹16,27,104/-. But the Assessing Officer (hereinafter referred to as Ld. 'AO'), CPC did not allow the deduction of ₹16,27,104/- claimed u/s 80P of the Act as the return was not filed within the due date specified u/s 139(1) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who went through the provisions of section 80AC of the Act and held that the assessee was required to file the return within the due date specified u/s 139(1) of the Act for claiming the deduction and the disallowance of the claim of deduction u/s 80P can be done in the intimation issued u/s 143(1)(A) of the Act by relying upon the judicial pronouncements in the cases of a) *The Hon'ble Supreme Court in the case of Prakash Nath Khanna v. CIT [2004] 266 ITR 1*, b) *Hon'ble High Court of Madras in the case of AA520 Veerappampalayam Primary Agricultural Cooperative Credit Society Ltd., [2022] 138 taxmann.com 571 (Madras)*, c) *Janki Vaishali Co-operative Housing Society Limited Vs CIT (Appeals) (ITAT Mumbai), ITA NO.944/MUM/2022(AY 2018-19)* and held that since the assessee had filed the return of income for AY 2018-19 beyond the due date specified u/s 139(1) of the Act, no deduction u/s 80P of the Act would be allowed to the assessee as per section 80AC(ii) of the Act. Further, in view of the existing provisions for the relevant assessment year, the adjustment u/s 143(1)(a) of the Act could be made under the clause (ii) of the said section which says "an incorrect claim, if such incorrect claim is apparent from any information in the return" and dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.



5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that after the assessment was done, the CBDT Circular for condonation of delay u/s 119(2)(b) of the Act was issued sometime in August, 2023 while the order had been passed after a year. The assessee filed the appeal after the circular was issued along with the condonation of delay and had relied upon the decision of the CIT(Appeals) in the case of Mamjoan O Hatishala Gram Panchayat Samabay Krishi Unnayan Samity Ltd. for A.Y. 2018-19 but the argument was not accepted as there is an amendment to section 80AC(ii) applicable for A.Y. 2018-19. It is claimed in the written submission filed that the power to disallow the claims under Chapter VI-A including section 80P of the Act was granted to the Ld. AO only by the Finance Act, 2021 with effect from April 1, 2021, therefore, prior to April 1, 2021 the Ld. AO did not possess the authority to disallow such claims made under Chapter VI-A of the Act.

6. We have considered the submissions made. As has been held in the case of **Panisheola Samabay Krishi Unnayan Samity Limited vs. Deputy Commissioner of Income Tax, Circle 4(2), Kolkata [ITA No. 1181/Kol/2024 for the Assessment Year 2019-20]** order dated 14.10.2024 that the provisions relating to Chapter VI-A adjustments are applicable from 01.04.2021 and prior to that there was no power available to the Ld. AO to disallow the claim under the head “C.- Deductions in respect of certain incomes” under section 80P of Chapter VI-A of the Act. The relevant extract from the order is as under:

“4. During the course of the hearing, it was submitted by the Ld. AR that the amendment in sub-clause (v) of Section 143(1)(a) of the Act which has substituted “sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if” with “sections 10AA or under any of the provisions of Chapter VI-A under the headings “C.- Deductions in respect of certain incomes”, if” was

inserted by the Finance Act, 2021 w.e.f. 01.04.2021. The Ld. AR also relied upon the decision of the coordinate Benches of the Tribunal in the cases of *Bisharpara Kodalia Coop. Credit Society Ltd. Vs. Income Tax Officer, Ward 49(2), Kolkata, ITA No. 1248/Kol/2023, AY 2018-19, dated 06.02.2024* and *The Commercial Taxes Directorate Employees Co Op. Credit Society Limited Vs. ADIT, CPC, Bangalore, ITA No. 204/Kol/2024, AY 2020-21, dated 19.04.2024*. The Ld. Sr. DR relied upon the order of the Addl./JCIT(A).

5. We have heard the rival contentions and perused the material available on record. A perusal of the relevant provision shows that the power to make disallowance of deduction under the head “C.- Deductions in respect of certain incomes” under section 80P of Chapter VIA while processing the return u/s 143(1) has been given to the assessing officer only by the Finance Act, 2021 with effect from 01.04.2021. Prior to that there was no power available with the Ld. AO to disallow the claim made under head “C.- Deductions in respect of certain incomes” under Chapter VI-A of the Act. Similar issue also came up in the case of *Bisharpara Kodalia Coop. Credit Society Ltd. Vs. Income Tax Officer, Ward 49(2), Kolkata (supra)* in which the coordinate Bench has held as under:

4. We have heard rival submissions and have gone through the record placed before us. We notice that the assessee is a Co-operative Society engaged in the business of providing credit to its members. The assessee is required under law to get its account audited under the rules and regulations of West Bengal Cooperative Societies Act, 2006 by the auditor appointed by Directorate of Cooperative Societies. For the AY 2018-19 due date for filing the return was 30.09.2018. However, the return was submitted on 25.11.2018.

5. We note that the Central Processing Centre denied the deduction u/s. 80P of the Act solely for the reason that return was not filed within the due date. Provisions of section 143(1)(a)(v) provides that -

“(v) disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VIA under the heading “C - Deductions in respect of certain incomes”, if the return is furnished beyond the due date specified under subsection (1) of section 139;”

5.1. In the above provision, an amendment brought is in by Finance Act from 01.04.2021 w.e.f. 1.4.21 and before such amendment in place of the phrase section 10A or in any of the provisions of Chapter VIA under the head e - the words “deductions in respect of certain income, previously which was provided as section 10AA, 80IA, 80IB, 80IC, 80ID or section 80IE of the Act were appearing.”

6. From perusal of the said amendment, we note that before 01.04.2021 there was no mechanism for the CPC to prima facie disallow the claim u/s. 80P of the Act. It was only from 01.04.2021 that such powers have been conferred with the CPC to make prima facie disallowance in case of the claim made u/s 10AA or deduction claimed under any of the provisions in Chapter VIA which, inter alia, includes 80P of the Act.

7. We note that section 80AC of the Act puts a bar against claiming of deduction in respect of certain income provided under the head (C) of Chapter VIA which includes section 80P of the Act also if the return of income are not filed before the due date prescribed u/s. 139(1) of the Act. Had it been a case of scrutiny proceeding u/s. 143(3) of the Act, the situation certainly would have been against the assessee subject to the approval by the authorities for condonation of delay in filing the return. However, before us, the issue is regarding prima facie adjustment made u/s. 143(1)(a)(v) of the Act and as discussed above, such power of making the prima facie adjustment towards deduction u/s. 80P of the Act came to CPC only from 1.4.2021 and thus, the alleged disallowance by CPC is beyond its jurisdiction. Therefore, the assessee deserves relief. We are thus inclined to hold that the Ld. CIT(A) erred in denying the deduction u/s 80P of the Act for Rs.19,42,264/-. We, therefore, set aside the order of the Ld. CIT(A) and allow the grounds of appeal raised by the assessee for the claim of deduction u/s. 80P of the Act at Rs.19,42,264/-.

6. Therefore, respectfully following the decision of the co-ordinate Bench, on facts of the case which are identical to the cases relied upon by the Ld. AR, the Ld. AO was not justified in disallowing the claim for deduction u/s 80P while making prima facie adjustments u/s 143(1)(a)(v) of the Act as the amended provisions were not available for the impugned assessment year and no such adjustment was legally permissible. Section 80AC could have been invoked in the assessment u/s 143(3) of the Act only. Hence, the Ld. AO is directed to delete the disallowance made in the intimation u/s 143(1) of the Act and allow the deduction u/s 80P of the Act as per law. Thus, Ground Nos. 1 to 6 are allowed.

7. In the result, the appeal of the assessee is allowed.”

7. Thus, respectfully following the decision in the case of **Panisheola Samabay Krishi Unnayan Samity Limited** (supra), we hereby hold that for the impugned AY 2018-19 as per provisions of section 80-AC of the Act the disallowance u/s 80P of the Act could have been made only



in the course of the scrutiny assessment but not in the course of processing of return u/s 143(1) of the Act. Therefore, the Ground nos. 1,2,3,4 and 5 are allowed and the Ld. AO is directed to delete the addition made and allow the claim of deduction u/s 80P of the Act of ₹16,27,104/- made by the assessee.

8. Ground no. 6 being general in nature does not require any separate adjudication.

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

Order pronounced in the open Court on 21st October, 2025.

Sd/-

[Sonjoy Sarma]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 21.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Madhya Shikarpur Charalkhali SKUS Ltd., Charalkhali, P.O. Darermath, P.S.-Murutia, Nadia, West Bengal, 741158.**
2. **Addl/Joint/Deputy/Asst CIT, Delhi, National e-Assessment Centre, Delhi [I.T.O., Ward-41(3), Nadia].**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata