

**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.: 382/KOL/2025
Assessment Year: 2017-18**

Kamalpur Jotekanuragarh S K U S Limited	Vs.	ACIT, Circle-38, Medinipur
(Appellant)		(Respondent)
PAN: AAPFK6989B		

Appearances:

Assessee represented by : Amit Agrawal, Adv.

Department represented by : Pampa Ray, Sr. DR, JCIT.

Date of concluding the hearing : 18-August-2025

Date of pronouncing the order : 28-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Addl/JCIT(A)- 8, Delhi [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 26.12.2024, which has been passed against the assessment order u/s 144 of the Act, dated 29.11.2019.

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

"1. That the learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre, Delhi was not justified in upholding the action of the Assessing Officer denying the deduction of Rs 8,66,130/- u/s. 80P(2)(a) (i) and 80P(2)(a)(iv), 80P(2)(d) for not filling of income tax return for FY 2016-17 relating to AY 2017-18.



2. That the learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre, Delhi erred in law as well as in facts, in not allowing the deduction u/s.80P(2)(a)(i) to the extent of the profit earned on providing credit facilities to its members.

3. That on the facts and in the circumstances of the case the learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre, Delhi was not justified in upholding the action of the Assessing Officer for Disallowance of income because of cash deposit into bank amounting to Rs.36,00,000/- during the period of demonetization.

4. That the Penalty Proceeding u/s. 270A of the Income Tax 1961, will not be initiated as there was no under reporting of Assessee's Income as the accounts has been audited by Co-operative Auditor, Government of West Bengal.

5. That the Penalty Proceeding u/s.271F of the Income Tax 1961, will not be initiated as the appellant was under Bonafede belief that it being a co-operative society and the entire income being exempt and was not bound to file any return of income every year.

6. That the Penalty Proceeding u/s.272A(1) (d) of the Income Tax 1961, may be initiated with least amount minimum penalty for failure to comply as the Assessee acknowledge and deeply apologize for non-compliance of Income Tax department letter.

7. That the appellant craves leave to supplement, amend, add, substitute, cancel, delete or otherwise modify all or any of the grounds herein before or at the time of hearing, if necessary, so arises.”

3. Brief facts of the case are that the assessee is a Primary Agricultural Cooperative Credit Society and is registered under the West Bengal Cooperative Societies Act, 2006. The assessee claims to be engaged in the business of fertilisers, seeds, providing KCC loans to members, SHG loans and is also carrying on the business of banking with his farmer members and other local area villagers by following all rules and regulations mentioned in the by-laws as stated before the Ld. CIT(A). The assessee had not filed the return of income for A.Y. 2017-18 and the case was selected for scrutiny on the basis of information gathered during the phase of online verification under 'Operation Clean



Money'. The assessee had deposited the sum of ₹ 36,00,000/- into its bank account during the period of demonetisation from 09/11/2016 to 30/12/2016. The Assessing Officer ("the Ld. AO") issued a notice under section 142(1) of the Act and also required the assessee to furnish various details. After considering the response of the assessee, he treated the deposits in the bank account as part of the business activities and concluded that the assessee had made a profit of ₹8,66,130/- during the relevant period. The assessment was made at the total income of ₹ 8,66,130/- under section 144 of the Act. Since no return of income was filed, therefore, the deduction under section 80P was denied. Aggrieved with the assessment order, the assessee preferred an appeal before the Ld. CIT(A), who vide the impugned order dismissed the appeal. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival contentions were heard and the record and the submissions made have been examined. The Ld. AR submitted that the return of income was not filed. It was submitted that the Ld. CIT(A) has relied upon the provisions of section 80AC but the same were with effect from 01/04/2018 i.e. A.Y. 2018-19 while the appeal relates to A.Y. 2017-18 when these provisions were not applicable. He stated that another opportunity may be provided so that proper submission could be made before the Ld. CIT(A). The Ld. DR relied upon the order of the Ld. CIT(A) but did not oppose the request of the assessee for another opportunity.

5. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). The Ld. CIT(A) has relied upon the provisions of section 80A(5) and not of section 80AC as a perusal of the assessment order would show.



However, we also find that at both the stages of assessment order before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. The Ld. AR requested that the matter may be remitted to the Ld. CIT(A) while the Ld. DR supported the order of the Ld. CIT(A). Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case properly before the Ld. CIT(A). We, therefore, set aside the order of the Ld. CIT(A) and restore the appeal to him to be decided afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and to be heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereafter pass an order in accordance with law. For statistical purposes, the appeal of the assessee is partly allowed.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 28th October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 28.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Kamalpur Jotekanuragarh S K U S Limited, C/o. Ananda Mohan Samanta, Kamalpur, Sree Ramnagar, Ghatal, Paschim Medinipur, West Bengal, 721212.**
2. **ACIT, Circle-38, Medinipur.**
3. Addl/JCIT(A)-8, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order
Assistant Registrar
ITAT, Kolkata Benches
Kolkata