

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI. KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1565/Bang/2025
Assessment Year : 2020-21

Ms. Shri Gurulingeshwar Souhard Pattin Sahakari Niyamit Sindagi, 1, Main Road, Sindagi – 586 128,Karnataka. PAN : AAJAS 1983 N	Vs.	DCIT - 3(3)(1), HMT Building, Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Veeranna M Murgod, CA
Revenue by	:	Shri. Subramanian S,JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	07.10.2025
Date of Pronouncement	:	15.10.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member :

This appeal is filed by the assessee against the Order passed by the NFAC, CIT(A) under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’) vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1067885772(1) dated 22.08.2024.

2. Briefly stated the facts of the case are that assessee filed return of income declaring total income of Rs. Nil. The return was selected for complete scrutiny under CASS. Accordingly, notice under section 143(2) of the Act was issued to the assessee on 29.06.2021. Subsequently, other statutory notices were issued to the assessee but initially there was no response from the assessee’s side. Thereafter, show cause notice dated 29.09.2022 was issued to the assessee. Assessee furnished its reply and submitted that assessee is a Co-operative Society registered as Souharda Co-operative Society and

declared its income from interest income on loan, investment income, bank interest, loan processing interest, etc. Assessee declared its principal business to be of providing credit facilities to its members and claimed to have been engaged in such activity during the year and as such claimed deduction under section 80P(2)(a)(i) of the Act on the entire amount. Further, it was observed from the ITR for Assessment Year 2020-21 High creditors are declared at Nil and other payables shown at Rs.68,54,755/- under current liabilities at Sl.No.3(d)(i) of Part-A, BS. It is observed that the ITR of Assessment Year 2019-20 was declared invalid. Therefore the entire amount is considered to be added back and proposed such variation as assessee has failed to bring in any evidence in support of such claim despite several opportunities were given. After going through the submissions of the assessee, the AO noted that assessee is registered under Karnataka Souharda Sahakari Act, 1997, and engaged in activity of accepting deposits and providing credit facilities to its members but proof of certificate by large to support of its claim. Regarding the AO examining the record and examining the eligibility of deduction under section 80P(2) of the Act, it was noted that in absence of documentary evidence on record, the activities of the assessee claimed to have engaged was not proved on record to the satisfaction of the AO so that AO may get convinced that the assessee is engaged in providing credit facilities to its members and earning interest thereon and failed to substantiate the evidence regarding claim of deduction under section 80P(2) of the Act. Accordingly, the entire deduction claimed under section 80P of the Act was disallowed. Further, in respect of other payables appearing as fresh other payables during the year, the AO noted that other payables have connection with the expenses booked in the profit and loss account during the year. It has impact of reducing the profit generated during the year. However, the assessee has not produced any documents to prove the genuineness of the parties involved in the item

“other payables”. Accordingly, the amount of other payables of Rs.68,54,755/- was also added back to the income of the assessee.

3. Aggrieved from the above Order, assessee filed appeal before the learned CIT(A). During the appellate proceedings, the learned CIT(A) issued 3 notices on the email provided by the assessee but there was no response from the assessee’s side. Accordingly, learned CIT(A) decided the issue on the basis of materials available before him and dismissed appeal of the assessee.

4. Aggrieved from the above Order, assessee is in appeal before the Tribunal.

5. The learned Counsel reiterated the submissions made before the lower authorities and submitted that during the course of assessment proceedings, assessee filed the entire documents viz., registration certificate, financial statements and bye laws of the society to prove the claim of deduction under section 80P(2) of the Act. However, the AO has noted in his Order that the assessee has not submitted any documentary evidence to prove that whether assessee is eligible for deduction under section 80P(2) of the Act or not and before the learned CIT(A), notice sent on the email provided could not be seen by the assessee as it might have settled in the spam folder and requested that matter may be remitted back to the AO.

6. The learned DR relied on the Order of the lower authorities and submitted that during the course of assessment proceedings, in spite of giving several opportunities to the assessee had to prove the claim regarding deduction under chapter VI A, assessee could not furnish documents to the satisfaction of the AO and during the appellate proceedings, assessee did not respond to any of the notices. The ld. DR relied on the judgement of Hon’ble

jurisdictional high court in the case of M/S Judicial Employees House Building Co-operative Society Ltd vs ITO W-2 MYSURU in ITA No. 93/2024 order dated 16th Sep 2025 in regard to deduction u/s 80P(2)(d) of the Act

7. Considering the rival submissions and on perusal of entire material available on record and Orders of authorities below, we noted that here the dispute is on 2 issues (i) not allowing claim of deduction under section 80P(2) of the Act and (ii) addition made towards other payables shown in the income tax return. We noted from the submissions made during the assessment proceedings that assessee is registered under the Karnataka Souharda Sahakari Act, 1997, and engaged in activity of accepting deposits and providing credit facilities to its members. We noted that if assessee has satisfied the conditions mentioned in section 80P(2)(a)(i) of the Act for claim of deduction under section 80P(2)(a)(i) / 80P(2)(d) of the Act, assessee is eligible for deduction as per judgment of Hon'ble jurisdictional High Court. in the case of *Swabhimani Souharda Credit Co-operative v. UoI* [2020] 122 taxmann.com 37/421 ITR 670 (Karnataka) in which it has been held as under: *"5. Having heard the learned counsel for the parties and having perused the petition papers, this Court is of a considered opinion that the answer to the above question needs to be in the affirmative for the following reasons:*

(a) sec. 80P of the 1961 Act provides for deduction in respect of income of Co-operative Societies is obvious going by its very text; sub-section (1) of said section reads as under:

"80P. (1) Where, in the case of an assessee being a cooperative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2) in computing the total income of the assessee. "

The other provisions of this section being not of much relevance to the question being treated, are not reproduced, although they too have been looked into.

Sec. 2(19) which finds a place in the Dictionary Clause of the 1961 Act reads as under:

'co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;'

The provisions of sec.80P are enacted by the Parliament for promoting the co-operative movement in the Country in tune with what Father of the Nation Mahatma Gandhi preached to the countrymen; this Section needs to be liberally construed to effectuate the legislative object of encouraging & promoting the growth of cooperative movement vide Kanga & Palkhivala's The Law and Practice of Income Tax, 10th Edition, LexisNexis at page 1656; it is more so because the right to form a cooperative society itself is made a Fundamental Right, now enshrining in Article 19(1)(i) by virtue of 97th Amendment to the Constitution of India w.e.f 15-10-2013;

(b) the object of enacting sec.80P of the 1961 Act may be defeated if a restrictive meaning is assigned to the definition of "co-operative society" as given u/s.2(19) inasmuch as the invocability of the provisions of sec.80P is dependent upon the entity seeking the benefit thereunder being a cooperative society; going by the text and context of these provisions, one can safely conclude that all entities that are registered under the enactments relating to cooperative societies, regardless of their varying nomenclatures need to be treated as co-operative societies; this view accords with the purposive construction of sec.80P r/w sec.2(19) of the 1961 Act;

(c) *in the State of Karnataka, there have been two statutes enacted by the State Legislature that relate to registration & regulation of co-operative societies viz., the Karnataka Co-operative Societies Act, 1959 ie., Karnataka Act No. 11 of 1959 and the Karnataka Souharda Sahakari Act, 1997 ie., Karnataka Act No. 17 of 2000; both these Acts are enacted pursuant to Article 246(3) r/w Entry 32, List-II of Schedule VII of the Constitution of India; there is no other Entry to which this Act is relatable; the Legislative Entries being only the fields of legislation need to be very broadly interpreted, is the settled position of constitutional jurisprudence vide Ujagar Prints v. Union of India 1986 taxmann.com 529 (SC); Chapter X of 1997 Act containing sec.67 enacts important co-operative principles that animate and brood through almost all the provisions of this Act;*

(d) *the Karnataka Souharda Sahakari Bill, 1997 has the following as the Statement of Objects & Reasons:*

"1. the recognition, encouragement and voluntary formation of co-operatives based on self help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles specified therein;

2. removing all kinds of restrictions that have come to clog the free-functioning of the cooperatives and the controls and interference by the Government except registration and cancellation;

3. promotion of subsidiary organization, partnership between co-operatives and also collaboration between cooperatives and other institutions;

4. registration of co-operatives, union cooperatives and Federal Co-operative in furtherance of the objectives specified above;

5. Conversion of co-operative societies registered under the Karnataka Co-operative Societies Act, 1959 as a cooperative under the proposed legislation. Hence the Bill. "

(e) the preamble to the 1959 Act reads as under:

"Whereas it is expedient (to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies) in the State of Karnataka;

Be it enacted by the Karnataka State Legislature in the Tenth Year of the Republic of India as follows-"

Similarly, the preamble to the 1997 Act reads as follows:

"Whereas it is expedient to provide for recognition, encouragement and voluntary formation of cooperatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in the Forty-eighth Year of Republic of India as follows-".

A perusal of these two preambles and various provisions of these two Acts leads one to an irresistible conclusion that both these Acts are cognate statutes that deal with cooperative societies, regardless of some difference in their nomenclature and functionality, the subject matter being the same.

(e) the word 'co-operative' is defined by sec.2(d-2) of 1959 Act as under:

"2(d-2): 'Co-operative' means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), and includes the Union Cooperative and the Federal Co-operative "

Similarly, the word 'co-operative' is defined by Sec. 2(e) of 1997 Act as follows:

"2(e): "Co-operative" means a co-operative including a cooperative bank doing the business of banking registered or deemed to be registered under section 5 and which has the words 'Souharda Sahakari' in its name (and for the purposes of the Banking Regulation Act, 1949 (Central Act 10 of 1949), the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981), it shall be deemed to be a Cooperative Society".

A close examination of these two definitions shows that they have abundant proximity with each other in terms of content and contours; it hardly needs to be stated that in both these definitions the word 'co-operative' is employed not as an adjective but as a noun; the definition of other relative concepts in the dictionary clauses of these Acts strengthens this view; this apart, sec. 7 of the 1997 Act provides that the entity registered as a 'co-operative' shall be a body corporate, notwithstanding the conspicuous absence of the word 'society' as a postfix; sec.9 of the 1959 Act makes the entity once registered u/s.8 thereof a body corporate; both the entities have perpetual succession by operation of law; thus on registration be it under the 1959 Act or the 1997 Act, a legal personality is donned by them, so that inter alia they can own and possess the property;

(f) the employment of the word "Sahakari" in the very title of the 1997 Act is also not sans any significance; 'Sahakaar' in Sanskrit is the equivalent of 'sahakaara' in Kannada which means 'co-operation'; as already mentioned above both the 1959 Act and the 1997 Act employ this terminology; the 1997 Act is woven with the principles of co-operation; sec.4 of this Act bars registration of an entity unless its main objects are to serve the interest of the members in the area of co-operation and its bye-laws provide for economic and social betterment of its members

through self-help & mutual aid in accordance with the cooperative principles; this apart, even sub-section (2) of sec.4 is heavily loaded with co-operative substance.

In the above circumstances, these writ petitions succeed; a declaration is made to the effect that the entities registered under the Karnataka Souharda Sahakari Act, 1997 fit into the definition of "cooperative society" as enacted in sec.2(19) of the Income-tax Act, 1961 and therefore subject to all just exceptions, petitioners are entitled to stake their claim for the benefit of sec.80P of the said Act; a Writ of Certiorari issues quashing the impugned notice dated 30-3-2018 at Annexure-D in W.P.No.48414/2018; other legal consequences accordingly do follow.

It is needless to mention that the other provisions of sec. 80P of 1961 Act and their effect on the claim of the petitioner-like-societies have been left to be addressed by the concerned authorities. "

8. Respectfully following the above judgment, we hold that the assessee is eligible for deduction under section 80P of the Act and AO is directed to allow deduction under section 80P of the Act on the eligible profits.

9. Further, in respect of other payables shown in the balance sheet under the column "liabilities and other payables" of Rs.68,54,755/- which has arisen during the year towards expenses claimed in the P & L A/c, as per observation of the AO, However, this issue has also not been verified in detailed manner. Therefore, this issue is also remitted back to the AO for fresh consideration. Assessee is directed to produce required details. During the course of hearing, learned Counsel submitted that other payables include creditors and some provisions were made for expenditures. However, details were not provided. Therefore, this issue is also remitted back to the AO and AO is further directed

to give benefit of Circular issued by CBDT vide Circular No.37/2016 to the extent of applicability to the assessee.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(KESHAV DUBEY)
Judicial Member

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Bangalore.

Dated: 15.10.2025.

/NS/*

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR,ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.