

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.454/VIZ/2025
(निर्धारणवर्ष/ Assessment Year: 2017-18)**

The Kolavennu Large Sized Co-operative Credit Society Ltd., D.No. 3-3/1, Kolavennu Kankipadu Mandal Krishna District - 521153 [PAN:AABAT0640F] (अपीलधर्मी/Appellant)	Vs.	Income Tax Officer-Ward-2(4) Income Tax Office CR Building, 1st Floor, Annex M.G. Road, Vijayawada – 520002 Andhra Pradesh (प्रत्यर्धी/Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.10.2025
घोषणा की तारीख/Date of Pronouncement	:	29.10.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeal)/ADDL/JCIT(A)-3, Chennai [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/APL/S/250/2025-

26/1076544400(1) dated 29.05.2025 for the A.Y.2017-18 arising out of order passed under section 144 of Income Tax Act, 1961 (in short 'Act') dated 17.12.2019.

2. Brief facts of the case are that, assessee is a primary agricultural cooperative society, has not filed the return of income under section 139(1) of the Act. The case was selected for scrutiny, for the reason, that the assessee has made cash deposits amounting to Rs.37,57,500/- during the demonetization period into the bank account of the assessee. Subsequently, Ld. Assessing Officer [hereinafter in short "Ld. AO"] issued notice under section 142(1) of the Act on 24.11.2017 calling for return of income. However, assessee has failed to furnish the return of income. Further, Ld. AO issued notice under section 142(1) of the Act on various dates to submit the details and evidences required for the purpose of verification and examination of issues involved in the scrutiny assessment proceedings. In response, assessee has filed return of income on 28.11.2019 admitting a total income of Rs.Nil and claimed deduction under section 80P of the Act of Rs.11,84,857/-. Ld. AO observing that the return was not filed within the due date under section 139(1) of the Act, treated the return as invalid and denied the deduction claimed by the assessee. Thereafter, Ld. AO proceeded to complete the assessment under section 144 of

the Act by determining the income of the assessee at Rs.12,76,714/- by treating an amount of Rs.11,84,857/- as business income of the assessee.

3. On being aggrieved, assessee filed an appeal before Ld. CIT(A). Ld.CIT(A) sustained the order of the Ld. AO.

4. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

“1. The order of the learned ADDL/JCIT (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned ADDL/JCIT (A) -3, Chennai is not justified in sustaining the addition of Rs.11,84,857 made by the assessing officer towards disallowance of claim for deduction u/s 80P of the Act.

3. The learned ADDL/JCIT (A)-3, Chennai ought to have held that the return filed by the appellant on 28.11.2019 is a valid return for the purpose of S.80A(5) of the Act and that the assessing officer is not justified in treating the return as invalid return.

4. Any other ground that may be urged at the time of appeal hearing.”

5. The only issue emanating from the grounds raised by the assessee is with respect to disallowance of deduction claimed by the assessee under section 80P of the Act claimed in the return of income filed on 28.11.2019, in response to notice u/s 142(1).

6. At the outset, the Learned Authorized Representative [Ld. AR] argued that the assessee is a Primary Agricultural Credit Society Limited and claimed

deduction under section 80P of the Act for the A.Y.2017-18. Ld.AR submitted that Ld. AO/Ld. CIT(A) erred in appraising that the return filed by the assessee is an invalid return since the same is not filed under section 139(1) or 139(4) of the Act without considering that for the purpose of claiming deduction u/s 80P, the return of income is required to be filed u/s 139(1) w.e.f A.Y.2018-19 only. The Ld. AR further submitted that as per section 80P(2)(a)(i) of the Act, the assessee is entitled for deduction as the assessee is being a primary agricultural cooperative credit society registered under the Societies Act. The Ld. AR further submitted that section 80A(5) cannot be applied in the instant case due to the fact that it does not mention within which period the return should be filed. The Ld.AR further submitted that section 80AC(ii) which was inserted w.e.f. 1/4/2018 specifies that “any Deduction is admissible under any provisions of this Chapter under heading “C-deductions in respect of certain incomes” no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139 of the Act. The Ld. AR argued that since the heading “C-deductions in respect of certain incomes” has been segregated from the other deductions it has to be applied to the instant case also. The Ld. AR further argued that as per the Finance Act, 2018 which came into effect w.e.f 01/04/2018, the substitution to section 80AC is only applicable from the assessment year commencing on or after 01/04/2018 i.e., A.Y.2018-19 and not

applicable to the earlier assessment years i.e., A.Y. 2017-18 as in the case of the assessee. Therefore, the assessee is entitled to claim deduction under section 80P of the Act even though the return of income is filed belatedly.

7. Per contra, the Ld. DR submitted that the assessee has not filed a valid return of income in accordance with the provisions of section 139(1) or 139(4) of the Act in order to claim deduction under section 80P of the Act. The Ld. DR further submitted that as per section 80A(5) of the Act when no valid return of income is filed, the assessee has failed to make a claim of deduction under section 80P of the Act, and therefore no deduction is permissible under the Act. The Ld. DR strongly relied on the orders of the Ld. Revenue Authorities.

8. We have heard both the sides and perused the material available on record as well as the orders of the Revenue Authorities. It is an admitted fact that the assessee has failed to file the return of income under section 139(1) of the Act. Further, during the assessment proceedings, assessee belatedly filed the return of income on 28.11.2019 by claiming deduction under section 80P of the Act amounting to Rs.11,84,857/-. The Ld. AO while invoking the provisions of section 80A(5) and 80AC of the Act observed that the assessee has not filed the return of income on or before the due date of filing the return of income under section 139(1) of the Act and therefore disallowed the deduction claimed by the assessee. The Ld. AO arrived at this conclusion by treating the return of

incomefiled belatedly as invalid and non-est. Section 80A(5) and Section 80AC of the Act are reproduced herein below for reference:

“80A(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder.

9. On a plain reading of section 80A(5) of the Act, it is clear that the assessee should make a claim in the return of income for claiming deduction under “Certain income under the Chapter heading "C". However, the section does not specify that whether the deduction is allowable if the return of income is filed belatedly. The only condition is that the assessee should make a claim while filing the return of income. In the case on hand, the assessee has made a claim for deduction u/s 80P while filing the return of income on 28.11.2019 during the assessment proceedings.

10. Section 80AC of the Act is reproduced below for ready reference: -

“80AC. Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;

(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.”

11. Similarly, from the A.Y. 2018-19 section 80AC(ii) was introduced to allow the deduction under certain income under Chapter heading "C-Deductions in respect of certain incomes", unless the return of income for such assessment year has been filed on or before the due date specified under section 139(1) of the Act. This condition was not applicable for the A.Y. 2017-18. In the instant case, the assessee filed the return of income for A.Y. 2017-18, belatedly on 28.11.2019 during the course of assessment proceedings. Further, the amendment to section 80AC was considered prospective by various judicial pronouncements. It can be observed from the provisions of section 80A(5) of the Act, which can be made applicable to the instant case, only when the return of income is filed by an assessee and deduction under Chapter-VIA of the Act is not claimed while filing the return of income. The provisions of section 80AC of the Act contemplate denial of deduction of certain provisions of Chapter-VIA of the Act if the return of income is not filed by the assessee on or before the due date specified under sub-section (1) of section 139 of the Act. These provisions, introduced from the A.Y. 2018-19 in our opinion, is prospective and hence do not apply to the deduction under section 80P of the Act in the instant case for the impugned assessment year. Therefore, we are of the considered view that the Revenue is not justified in not entertaining the deduction under section 80P

of the Act made by the assessee while filing the return of income for A.Y. 2017-18 on 28.11.2019. Accordingly, we direct the Ld. AO to consider the claim of the assessee under section 80P as made in the return of income filed on 28.11.2019. Hence, this issue is set aside to the record of the Ld. AO for examination of the amount of claim made by the assessee under section 80P on merits. The case laws relied on by the Ld. DR are distinguishable on the facts and hence cannot be applied to the instant case.

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

Order pronounced in the open court on 29th October, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 29.10.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **The Kolavennu Large Sized Co-operative Credit Society Ltd.,**
D.No. 3-3/1, Kolavennu
Kankipadu Mandal
Krishna District – 521153
2. राजस्व/ The Revenue : **Income Tax Officer-Ward-2(4)**
Income Tax Office
CR Building, 1st Floor, Annex
M.G. Road, Vijayawada – 520002
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam