



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.199/RJT/2025

निर्धारण वर्ष/Assessment Year :2018-19

Khadakala Seva Sahkari Mandali Ltd. Savarkundla, Amreli, 364515 [C/o. D. R. Adhia Om Shri Padamlaya, Near Trikamrayji Haweli, 16- Jagnath Plot, Dr. Yagnik Road, Opp. Imperial Hotel, Rajkot, Gujarat 360001]	बनाम/ Vs	Income Tax Officer Ward 3(1)(4), Amreli Gujarat - 365650
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AABAK3647B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Written Submission

राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Ld. Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **10/09/2025**

घोषणा की तारीख/**Date of Pronouncement** : **28/11/2025**

आदेश/ORDER

Per, Dr. Arjun Lal Saini, A.M:

Captioned appeal filed by the assessee pertaining to Assessment Year 2018-19, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by Learned Commissioner of Income Tax (Appeal) [hereinafter referred to as "CIT(A)"], dated 20.10.2023, which in turn arises out of an intimation order passed by CPC, Bengaluru / Assessing Officer u/s 143(1) of the Act, on 25.06.2019.



2. Grounds of appeal raised by the assessee are as follows:

- “1. *The Ld. A.O. erred in law as well as on facts in not allowing deduction of Rs. 3,58,271/-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
2. *The Ld. A.O. erred in law as well as on facts in calculating F net tax liability of Rs. 1,07,615/-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
3. *The Ld. A.O. erred in law as well as on facts in charging F interest U/s 234A of Rs. 7,532/-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
4. *The Ld. A.O. erred in law as well as on facts in charging E interest U/s 234B of Rs. 16,140/-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.*
5. *The Ld. A.O. erred in law as well as on facts in charging interest U/s 234C of Rs. 5,434 /-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
6. *The Ld. A.O. erred in law as well as on facts in not allowing deduction of Rs. 3,58,271/-, without cogent reason or cogent material brought on records. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
7. *The Ld. A.O. erred in law as well as on facts in not accepting claim of deduction made U/s 80P stating that return is filed late. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
8. *The Ld. A.O. erred in law as well as on facts in not allowing deduction of Rs. 3,58,271/-, without giving proper opportunity and adequately considering the matter. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation*
9. *The Ld. A.O. erred in law as well as on facts in calculating not allowing deduction of Rs. 3,58,271/-. based on irrelevant consideration. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.*
10. *The Ld. A.O. erred in law as well as on facts in not allowing deduction of Rs. 3,58,271/- based on presumption and surmises. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.*
11. *Taking into consideration legal, statutory, factual and administrative aspects no addition as made ought to have been made. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.*



12. *The Ld. A.O. erred in law as well as on facts in not giving due deductions while completing assessments. The Ld CIT(A) has also erred in confirming the same. The same needs to be allowed.*
13. *The Ld. A.O. erred in law as well as on facts in not giving due exemption while completing assessments. The Ld CIT(A) has also erred in confirming the same. The same needs to be allowed.*
14. *Without prejudice, the assessment made being illegal, void, bad in law and against statutory provisions, needs annulment. The Ld CIT(A) has also erred in confirming the same.*
15. *Without prejudice, the change of status and determination of fact liability as made by the Ld. A.O. are also bad in law. The Ld CIT(A) has also erred in confirming the same. The same deserves annulment*
16. *Without prejudice, no reasonable opportunity has been given by the Ld. A.O. while completing assessment. The Ld CIT(A) has also erred in confirming the same. The same needs annulment*
17. *Without prejudice, there being no legal service of the notice of hearing issued and therefore the assessment needs annulment. The Ld CIT(A) has also erred in confirming the same.*
18. *Without prejudice, no sufficient and reasonable opportunity has been provided at appellate stages. This is erroneous*
19. *The appellant craves leave to add/alter/amend and/or substitute any or all grounds of appeal before the actual hearing takes place.”*

3. Notice of hearing of this appeal was sent to the assessee at the address given by the assessee in Form No.36. The said notice has not been returned unserved. Today when the case was called for hearing none appeared on behalf of the assessee nor any request for adjournment was made. It means that assessee is not interested in prosecuting this appeal. The appeal filed by the assessee is also barred by limitation by 300 days. The assessee did not file the petition for condonation of delay, despite repeated reminders. The Learned DR for the revenue, submitted that the assessee under consideration, filed the written submission on merit, however, did not file the petition for condonation of delay, therefore the delay of 300 days should not be condoned and appeal of the assessee should be dismissed. The Ld. DR



for the Revenue also submitted written submissions before me, which are reproduced below:

“In this case, due date of filing ITR was 31.08.2018. However, Assessee filed Sch on 27.03.2019 long after the due date. Hence, Assessee was not eligible for deduction claimed u/s BOP. CPC issued notice to Assessee on 10.05.2019 for proposed adjustment u/s 143(1)(a) & allowed time to assesee to response in 30 days. (copy of notice already provided to Hon'ble bench by email on 09.08.2025 & enclosed again herewith). CPC passed order u/s 143(1) on 25.06.2019 by making adjustments disallowing deductions claimed u/s BOP as ROI was not filed within due date.

Assessee filed appeal against this order with delay & also not fled application for condonation of delay (as mentioned in para 3.8 of order of Addl. CIT/ICITA) in subject case). However, ADDL/ICIT (A) decided the issue on merit as well and dismissed appeal of assessee vide order dated 20.10.2023

Assessee seems filed current appeal against the order of Addl. CIT/ICIT(A) 27.03.2025 after a long delay and also not seems filed application for condonation of delay.

Assessee had filed brief written submission but not appeared during hearing on 10.09.2025 before Hon'ble SMC bench and cases was heard by Hon'ble SMC bench.

As directed brief submission on behalf of department is as under:

1. *Delay in filling appeal, in subject case disputed order of Add CIT/ICITEA) dated 20.10.2023 and Assessee seems fled current appeal against the order of Addl. CIT/ICIT(A) on 27.03.2025 before Hon'ble ITAT after a long delay and also not seems filed any application for condonation of delay in the written submission filed by Assessee also, any reason to explain delay has not been mentioned. It is worthwhile to mention that even before Add CT/ICIT(A) assesee filed appeal with delay & also not fled application for condonation of delay. Even ROI was fled with huge delay. So Assessee is habitual in filing ITRs/ appeals after the due dates with long delay and that too without explaining any reason for delay & even without filing any application for delay condonation.*

Hence, it is requested that delay may not be condoned and appeal of Assessee may be dismissed.

2. *Without prejudice to above, brief submissions on merit are as under:*

- a) *It is undisputed that ROI of subject AY 2018-19 was not filed by Assessee within due date.*
- b) *As per section 80AC of chapter VIA of income tax act applicable from AY 2018-19,*



"...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.

Hence, in view of the same, Assesee is not eligible for any such deduction including deduction u/s 80 P as it comes under heading "C.-Deductions in respect of certain incomes", of chapter VIA.

- c) *As mentioned in para 3.6 of appeal order by Addl. CIT/JCIT(A) in subject case-Hon'ble Supreme Court of India in the case of Checkmate Services Pvt Ltd held that.. if deduction or exemption is available on compliance with certain conditions, the conditions are to be strictly complied with..... Taxing statute are to be constructed strictly and that there is no room for equitable consideration.*

The deductions are to be granted only when the conditions which govern them are strictly complied with.

Hence as per strict interpretation of law Assesee is not eligible for any deduction u/s 80 P.

- d) *As mentioned In para 3.13 & 3.14 of appeal order by Addl. CIT/JCIT(A) in subject case that from the memorandum to finance bill 2008 & 2016 explaining the provisions of section 143(1)(a)(ii), specifies the incorrect claim particularly if such incorrect claim is apparent from any information in return of income and that can be information as such as audit report or some other information as provided by assessee in return of income..... the amended provisions empower adjustments to be made interalia on the basis of remarks included in ITR or incorrect claim apparent from any information in ROI...scope of adjustment u/s 143(1) has been widened and enlarged...*

In the present case adjustment has been made on account of incorrect claim i.e. filing of ROI after the due date, which is apparent from information in the ITR as provided by the Assesee.

- e) *As per provision of section 143(1) (a)(ii) CPC can make any adjustment w.r.t incorrect claim, if such incorrect claim is apparent from any information in ITR. In this case due date of ROI as well as return filing date by Assesee both are information available in ROI and claim of Assesee for deduction u/s 80P is an apparent incorrect claim on the basis of this information. Incorrect claim of Assesee for deduction u/s 80P is clearly inconsistent with another entries of due date & return filing date (both available ITR). Hence, CPC was right in making such adjustment.*



f) Assesee in its written submission filed before Hon'ble bench relying upon the order of Hon'ble ITAT in the case of Lunidhar Seva Sahkari Mandali Ltd ITA 202/2022 dated 22.02.2023. This order was in turn seems relied upon judgement in the case of Chitrakal Service Co-operative Bank Ltd v CIT (2016).

However, the same is not appliance in this case being different facts as well as in view of discussion made by Addl. CIT/JCIT(A) in the case of KANATALAW SEVA SAHAKARI MANDALI LTD in order dated 15.03.2024 at page 5 & 6 of order. This very case is also before Hon'ble SMC as ITA 200/RJT/2025 on same date 10.09.2025 and hence already on your kind record. (copy enclosed again)

In its order Addl. CIT/JCIT(A) has discussed judgement of Hon'ble High Court of Kerala in the case of M/s Nileswar Rangedkallu Chethu Vyavasaya Thozhilali Sahakaran Sangam Vs CIT (2023) by which Hon'ble High court had discussed & changed the findings in the case of Chitrakal Service Co-operative Bank Ltd v CIT (2016) in view of amended provisions of section 80AC of the act.

It is worthwhile to mention that order in the case of Chitrakal Service Co-operative Bank Ltd v CIT (2016) is an old order prior to amendment u/s 80AC and hence to be look into afresh in view of judgement of Hon'ble High Court of Kerala in the case of M/s Nileswar Rangedkallu Chethu Vyavasaya Thozhilali Sahakaran Sangam Vs CIT (2023) which is a new order.

Accordingly, order of Hon'ble ITAT in the case of Lunidhar Seva Sahkari Mandali Ltd ITA 202/2022 which in turn seems relied upon judgement in the case of Chitrakal Service Co-operative Bank Ltd v CIT (2016) also need to be looked into afresh in view of judgement of Hon'ble High Court of Kerala in the case of M/s Nileswar Rangedkallu Chethu Vyavasaya Thozhilali Sahakaran Sangam Vs CIT (2023). By this order Hon'ble High Court made it clear that subsequent amendments to section 80AC, it make the claim for deduction under section 80P conditional on filing a return with due date under section 139(1) of the IT Act..... conditions for claiming deduction under section 80P of the I T act has been made more stringent by reducing the time.....

In subject case since ROI was not filed in due time u/s 139(1), hence judgement of Hon'ble High Court is clearly applicable.

Hence, in view of the same claim of Assesee in this case to be rejected.

g) Assesee had claimed that CPC had not provided opportunity before adjustment is factually wrong as CPC Issued notice to Assesee on 10.05.2019 for proposed adjustment u/s 143(1)(a) & allowed time to asseseesee to response in 30 days. (copy of notice already provided to



Hon'ble bench by email on 09.09.2025 & enclosed again herewith). CPC passed order u/s 143(1) on 25.06.2019 after laps of sufficient time given to assessee. Further, assessee also got opportunity before CIT(A) as well as before this bench. As mentioned in para 4.1 of order of Addl. CIT/JCIT(A) in the case of KANATALAW SEVA SAHAKARI MANDALI LTD in order dated 15.03.2024 related to ITA 200/RJT/2025, as per judgement of Hon'ble Supreme Court of India in case of M.C. Mehta Vs UOI adoption of hyper technical approach would have defeated the end of justice.

Further, in subject case CPC had even already provided opportunity before making any adjustment. Hence plea of Assessee may be rejected.

- h) In view of all above discussion, submission of Assessee that CPC is not authorised to make disallowance u/s 80P for the reason that return was not filed in time, this plea is required to be rejected as CPC had rightly made adjustment.*
 - i) Further I also rely upon the order passed by CPC, order passed by Addl. CIT/JCIT(A) and my oral arguments/submissions already made during the course of hearing on 10.09.2025 before this Hon'ble SMC Bench of ITAT.*
- 3. In view of above it is humbly prayed that first of all delay of Assessee may not be condoned at all and further even on merit appeal of Assessee may be dismissed.”*

4. I have heard Ld. DR for the revenue and perused the material available on record. I find merit in the submissions of Ld. DR for the Revenue, to the effect that since the assessee did not file the petition for condonation of delay, therefore, assessee's appeal should be dismissed on account of condonation of delay. I note that there is a delay in filing appeal before this Tribunal for 300 days and assessee has not explained the sufficient cause to condone the such huge delay, by filing the petition for condonation of delay. I note that while deciding the prayer for condonation of delay, the court/appellate authority cannot ignore or give a go-by to the basic principle that the burden to prove the existence of sufficient cause is always on the assessee, and there is no presumption that the delay occasioned in the filing of the appeal is always bona fide and the condonation of delay is not the matter of right. In the instant case, the assessee



failed to prove the sufficient cause. The law of limitation envisages that there should have been a sufficient cause for not presenting the appeal within that period, as prescribed. Where the assessee has failed to show the sufficient cause for condonation of delay, and did not file the petition for condonation of delay, the appeal of the assessee is liable to be rejected. Therefore, I do not condone such huge delay, as the assessee failed to file the petition for condonation of delay to explain the sufficient cause in filing the appeal before this Tribunal, hence, appeal filed by the assessee, dismissed on this score only.

5. In the result, appeal filed by the assessee is dismissed, as indicated above.

Order pronounced in the open court on 28/11/2025.

Sd/-

(Dr. Arjun Lal Saini)

लेखा सदस्य/Accountant Member

//True Copy//

राजकोट/Rajkot

दिनांक/ Date: 28/11/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By order/आदेश से,

सहायक पंजीकार

आयकर अपीलीय अधिकरण, राजकोट