

आयकर अपीलीय अधिकरण न्यायपीठ, कोचीन
IN THE INCOME TAX APPELLATE TRIBUNAL, COCHIN

माननीय इंटूरी रामा राव, लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष
**BEFORE HON'BLE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI HON'BLE MANU KUMAR GIRI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No. 744/Coch/2025
निर्धारण वर्ष /Assessment Year: 2013-14

Kadukutty Service Co-operative
Bank Ltd. – No..628,
Via Chalakkudy P.O,
Kadukutty, Thrissur – 680 315.
PAN: AABAK 0755A

The Income Tax Officer,
Vs. Ward-1(1),
Thrissur.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Aji V. Dev
: Smt. Leena Lal, Snr AR

सुनवाई की तारीख/Date of Hearing

: 04.11.2025

घोषणा की तारीख /Date of Pronouncement

: 28.11.2025

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member):

The captioned appeal filed by the assessee is directed against
order of the Ld. Commissioner of Income Tax (Appeal)/NFAC, Delhi
[‘CIT(A)’ in short] dated 27.08.2025 for Assessment Year 2013-14.



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2. Grounds 1 to 11 concern the disallowance of deduction of Rs.1,36,55,587 u/s 80P of the Act.

3. Brief facts of the case are that the Assessing Officer held that the assessee, a Co-operative Bank, was not eligible for deduction u/s 80P based on section 80P(4) restricting deduction to primary agricultural credit societies & primary co-operative agricultural and rural development banks, alleged lack of mutuality, reliance on Citizen Co-operative Society Ltd. (SC) and Mundella Service Co-operative Bank (Kerala HC), allegation that return claiming deduction was not filed u/s 139(1), and alleged non-compliance with notices u/s 142(1)/143(2).

3. The AO issued notices u/s 148, 142(1) and 143(2). The assessee contended that non-compliance was not intentional, some details were not readily available, and that it is a Primary Agricultural Credit Society (PACS) under the Kerala Co-operative Societies Act, eligible for deduction u/s 80P(2)(a)(i). It relied on Mavilayi Service Co-operative Bank Ltd. (SC) and Chirakkal Service Co-operative Bank (Kerala HC). The AO held that the assessee had not proved eligibility under sec. 80P, that the principle of mutuality was absent, and therefore rejected the claim.



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4. Before the CIT(A), the assessee furnished written submissions, including proof of registration under the Kerala Co-operative Societies Act, assertion that it functions as a PACS, reliance on Mavilayi (SC) holding that classification under the State law determines eligibility for 80P, explanation regarding the filing of return and the notices under section 148. However, the CIT(A) focused primarily on the technical issue of filing return u/s 139(1), relied on Sun Engineering Works (SC), Nileshwar Range Kallam Co-op. Bank (Kerala HC), concluded that the assessee is not eligible to claim deduction u/s 80P when the return is filed in response to notice u/s 148 rather than u/s 139(1), held that issue of mutuality has become academic, and dismissed grounds 1 to 11.

5. Now assessee is in appeal before us. We have carefully heard the rival submissions and perused the record. It is evident that the CIT(A) did not render findings on critical factual issues, namely

- i. whether the assessee is in fact a Primary Agricultural Credit Society,
- ii. whether its activities satisfy the statutory tests laid down in Mavilayi (SC),
- iii. whether the AO's reliance on mutuality is irrelevant post-Mavilayi,



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iv. whether the AO made correct factual observations regarding cash deposits, surplus allocation, and nature of operations,

v. whether the return filing issue under section 139(1) affects eligibility, and whether the judicial precedents relied upon truly apply.

6. The CIT(A) decided the entire appeal only on the basis of return-filing technicality, without examining the nature of the institution, applicability of section 80P(2)(a)(i), statutory definition under Kerala Co-operative Societies Act, or the binding ratio of Mavilayi Service Co-operative Bank Ltd. that requires fact-based examination and does not bar 80P relief merely on the basis of 80P(4). Since the CIT(A) has not adjudicated the matter on merits, and since several material facts and legal positions require fresh and proper examination, we are of the view that the interests of justice require that the matter be restored to the file of the CIT(A) for de novo adjudication. Accordingly, the impugned order of the CIT(A) is set aside, and the matter is remanded back to the CIT(A) with the following directions:

- Examine afresh the assessee's eligibility for deduction u/s 80P(2)(a)(i), strictly in light of the Supreme Court decision in Mavilayi Service Co-operative Bank Ltd.
- Give proper findings on:
 - the nature and classification of the assessee under the Kerala Co-operative Societies Act,
 - whether its operations align with a PACS,



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- whether mutuality is relevant or irrelevant post-Mavilayi,
- and the factual evidence produced.
- Consider the assessee's submissions and documents filed before the AO and CIT(A).
- Provide the assessee an adequate opportunity of hearing.
- Pass a speaking, reasoned order in accordance with law.

The assessee is directed to co-operate and furnish all required details.

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

Order pronounced on 28th day of November, 2025 at Cochin.

Sd/-
(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य /Accountant Member

Sd/-

(मनु कुमार गिरि)

(Manu Kumar Giri)

न्यायिक सदस्य / Judicial Member

Cochin, दिनांक/Dated: 28th November, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT,
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF