

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

<b>ITA Nos. 617-618/Bang/2025</b>
<b>Assessment Year :2015-16 &amp;2017-18</b>

Shree Saraswathi Co-operative Credit Society Ltd., No. 6, 2 <sup>nd</sup> Floor, Sharadamba Complex, Coen Road, Hubli – 580 020 <b>PAN: AABAS1237R</b>	<b>Vs.</b>	The Income Tax Officer, Ward-2(3), Hubli.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Shri Subramanian, JCIT-DR

Date of Hearing	:	03-12-2025
Date of Pronouncement	:	31-12-2025

**ORDER**

**PER PRASHANT MAHARISHI, VICE – PRESIDENT**

1. ITA No. 617/Bang/2025 for Assessment Year 2015-16 and ITA No. 618/Bang/2025 for Assessment Year 2017-18 are filed by Shree Saraswathi Co-operative Credit Society Limited (the Assessee) against the Appellate Order passed by the National Faceless Appeal Centre, Delhi (the Ld. CIT(A)) on 14.03.2024 and 14.02.2024 respectively wherein the appeal filed by the Assessee against the Assessment Order passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) dated 17.09.2021 and 19.12.2019 passed by the Income Tax Officer, Ward-2(3), Hubli and the National Faceless Assessment

Centre, Delhi, respectively, were dismissed. Therefore, against both these Appellate Orders, the Assessee is in appeal before us.

2. ITA No. 617/Bang/2025 is late by 297 days because Appellate Order was passed on 14.03.2024 which was received by the Assessee on the same day but the Assessee filed the Appeal on 24.03.2025 thereby causing a delay of 297 days.
3. The Assessee submitted that the delay in filing of the Appeal is because of the sufficient cause. The Assessee also filed an Affidavit along with accompanying application for condonation of delay. The reason stated by the Assessee in application for condonation of delay was stated to be that in fact the date of receipt of the order though stated in form no. 36 of 14.03.2024 and therefore, accordingly, the Assessee should have filed the Appeal on 13.05.2024. The Assessee is a Co-operative Society registered as per the Karnataka State Co-operative Society Act, 1959. It is engaged in the business of providing credit facilities to its members. For the impugned Assessment Year, it filed its return of income on 29.09.2015 declaring a total income of Rs. Nil/- after claiming deduction u/s. 80P(2)(a)(i) of the Act of Rs. 15,60,240/-. The return was selected for scrutiny which culminated in the Assessment Order wherein the deduction u/s. 80P of the Act was denied.
4. The Ld. CIT(A) passed the Appellate Order. It was stated that the Ld. CIT(A) issued the notices of hearing in the month of February 2024 which could not be responded to by the Assessee which culminated into the ex-parte Appellate Order and therefore the Appeal was also filed belatedly.
5. The reason for the late filing of the Appeal was stated to be that Assessee could not conduct its elections for electing its governing/administrate and Management Board within the time

allotted as per the Karnataka Co-operative Societies Act, 1959. The Sub-Registrar of the Co-operative Societies as per his order dated 20.01.2024 appointed an Administrator for carrying out the functions of the Assessee till three months or till the elections are conducted and appointment of elected Management Board whichever is earlier. The earlier Management Board was suspended. The Assessee also submitted a copy of the order of the Registrar suspending the earlier Management Board. It was submitted that the Administrator was appointed on 20.01.2024 and the notices of hearing were issued by the CIT after the Administrator was appointed. The Administrator who is in charge of the entire affairs of the society could not and nor did it come to his notice about the notices of hearing issued by the CIT(A) and therefore such notices went unnoticed. The general elections of the societies were conducted by order dated 10.06.2024 and accordingly the appointment of new society management took place on 27.10.2024. In the initial period of the new management committee, they were streamlining the functions and they were not aware about such Assessment Appellate Order passed by the Ld. CIT(A). During the month of March 2025, the newly elected governing council met the tax consultant of the Assessee who is a Chartered Accountant and it was put to the notice of the Committee that on accessing the Income Tax e-filing portal of the Assessee, the order passed by the Ld. CIT(A) were found. Therefore, immediately it was brought to the notice of the newly elected governing council and it was advised to file the Appeal. Consequent to that the Assessee who is situated in Hubli immediately contacted Counsel in Bangalore who advised him to file the Appeal immediately. Accordingly, after payment of the appeal fees and preparation of the Appeal papers, the Appeal got filed on 24.03.2025 which has caused a delay of 325 days. Therefore, in the application for condonation of the delay, the Assessee contended that the Appellant was prevented by sufficient

cause in not filing Appeal within the due date prescribed. An Affidavit of Chairman of the Petitioner is also filed stating the above facts.

6. Similarly, Appeal for Assessment Year 2017-18 was also filed late by 328 days. The Appellate Order for Assessment Year 2017-18 was received by the Assessee on 14.02.2024 but the Appeal came to be filed on 24.03.2025 which has caused a delay of 328 days. Identically, the Assessee filed an application for condonation of delay stating the same reason, supported by the affidavit of the Chairman of the Society and also stating the same facts above the change in the management as well as taking the management of society by an Administrator.
7. The Ld. Authorized Representative Shri Narendra Sharma reiterated the facts stated in the petition for condonation of delay for both these Assessment Years and further supported his case with plethora of judicial precedents of various courts stating that if the delay is caused for sufficient reasons, it deserves to be condoned. He further stated that, that the change in the management of the society after an Administrator was appointed by the co-operative society prevented the Assessee in filing both these Appeals in time.
8. The Ld. Senior Departmental Representative, Shri Subramanian, Joint Commissioner of Income Tax, vehemently stated that the delay is enormous and therefore if there is no sufficient cause, same could not be condoned. It was his contention that the delay caused in filing of the Appeal, the Assessee has shown normal reasons which are operating with every co-operative society and therefore it cannot be stated that it has a sufficient cause for the condonation of the delay. He therefore submitted that the delay cannot be condoned in both these Appeals.

9. We have carefully considered the rival contentions and perused the orders of the Ld. Commissioner of Income Tax along with date of receipt of such orders and also considered the condonation petition filed by the Assessee coupled with the affidavit of the Chairman of the Assessee society. We find that undoubtedly, the Appeals for both these years are delayed substantially. However, the length of delay is immaterial if sufficient cause is shown. Only factor to be considered for condonation of the delay is whether the delay is caused because of sufficient cause or not. In the present case, the Assessee has stated that there was an appointment of Administrator by the Registrar of Co-operative Society. The earlier management was disbanded. The Administrator took over the working of the Assessee. Naturally, he was not aware about the pending proceedings. After substantial time, the election of the new management committee was ordered which came into operation subsequently after the election. As the new management committee took certain time to acclimatize themselves with the affairs of the society, during that process the meeting with the Chartered Accountant was conducted. The name of the Chartered Accountant is also mentioned in the condonation petition who was requested to provide guidance. Then the Chartered Accountant looked at the Income Tax portal of the Assessee, he found that, these two appeals have already been disposed off by the Ld. CIT (A) against which the appeals are required to be filed. As the Assessee is situated at Hubli and appeals are required to be filed at Bengaluru, present counsel was contacted who advised the Assessee to file the Appeal. Adhering to his advice, the Assessee engaged him to prefer an Appeal. He prepared the appeal, got the filing fees paid and thereafter the appeals were filed. This is the reason for which these appeals are late. We find that it is not necessary that the delay is required to be explained for each day or action should be shown for each day. The sufficiency of the cause would always be governed by the circumstantial facts available on record. These details submitted

by the Assessee are not all controverted by the revenue. We find that the delay in all these Appeals (2) is because due to sufficient cause and therefore we condone the delay and admit both these Appeals.

10. We first state the facts of Assessment Year 2015-16 in ITA No. 617/Bang/2025. The facts shows that the Assessee is a Co-operative Society who e-filed its return of income on 29.09.2025 declaring nil income after claiming the deduction u/s. 80P of Rs. 15,60,240/-. The case of the Assessee has reached back to the file of the Ld. Assessing Officer after ITAT as per order dated 26.07.2019 restored it back to the file of the Ld. Assessing Officer. In the original assessment proceedings also, the Ld. Assessing Officer disallowed the deduction u/s. 80P of the Act. The Ld. Assessing Officer found that the Assessee has earned interest income of Rs. 2,51,159/- with the bank. The Assessing Officer was of the view that this is income from other sources chargeable to tax u/s. 56 and Assessee is not entitled to any special deduction u/s. 80P on such interest. The Assessee responded that Assessee is eligible for deduction in view of the decision of the Hon'ble Karnataka High court in case of Tumkur Merchants Souhadra Credit Co-operative Society Limited (2015) 55 taxmann.com 447 (Karnataka) wherein such deduction is allowed. The Ld. Assessing Officer denied the deduction holding that Assessee is not entitled to deduction u/s. 80P of the Act and accordingly a sum of Rs. 15,60,240/- was denied. The Assessment Order u/s. 143(3) r.w.s. 254 r.w.s. 144B of the Income Tax Act was passed on 17.09.2021 determining the total income of the Assessee at Rs. 15,60,240/-.
11. Assessee aggrieved with the same preferred an Appeal before the Ld. CIT(A) wherein the Appeal was filed late by 7 days. Further, the Ld. CIT(A) issued 4 notices to the Assessee which were not responded to and therefore the Ld. CIT(A) reiterated the facts stated by the Ld.

Assessing Officer and upheld the action of the Ld. Assessing Officer. Thus, the Appeal of the Assessee was decided ex-parte.

12. Aggrieved with the same, the Assessee is in Appeal before us.
13. The Ld. Authorized Representative stated that by plethora of decision the issue is considered to be in favor of the Assessee. He referred that two decisions of the Hon'ble Karnataka High Court also covers the issue in favour of the Assessee. All those decisions are binding on the Ld. CIT (A) but same were not considered. Not considering the judicial precedents by the Ld. CIT(A) of the Hon'ble Karnataka High Court does not make the order of the Ld. CIT(A) sustainable in law. Even on the merits, he submitted that issue is squarely covered in favor of the Assessee. He submits that Assessee does not deal with any of the non-members and according to the provisions, the Assessee can only deal with the members. Further, the Assessee has claimed deduction u/s. 80P(2)(a)(i) of the Act and not u/s. 80P(2)(d) of the Act.
14. The Ld. Departmental Representative vehemently supported the orders of the Ld. lower authorities and submitted that one decision of the Hon'ble Karnataka High Court has categorically decided the issue against the Assessee and further the latest decision of the Hon'ble Karnataka High Court has also gone against the Assessee wherein it has been held that Assessee is not entitled to deduction u/s. 80P of the Act. Therefore, even on the merits, there is no infirmity in the orders of the Ld. lower authorities.
15. We have carefully considered the rival contentions and perused the orders of the Ld. lower authorities. The only issue involved in this Appeal is that whether the Assessee who is carrying on the activities as the members credit co-operative society is entitled to deduction u/s. 80P(2)(a)(i) of the Act or not. We find that the decision of the

Hon'ble Karnataka High Court in case of Tumkur Merchants Souhadra Credit Co-operative Society Limited as well as in case of Totgars Co-operative Sale Society Limited has categorically decided that the Assessee is entitled to such deduction after considering the decision of the Hon'ble Supreme Court. Further, the Hon'ble Karnataka High Court in another two decisions has also held that the Assessee is not entitled to the deduction. The later decision of the Hon'ble Karnataka High Court denying the deduction to the Assessee has been distinguished by the Hon'ble Karnataka High Court. Therefore, both these decisions operate in the same issue at present. However, the earlier two decisions cited namely Tumkur Merchants and Totgars Sales Co-operative Society, are precisely on section 80P(a)(a)(i) of the Act. Therefore, according to us the Assessee is entitled to the deduction claim.

16. However, the facts before us clearly shows that the Assessee did not appear before the Ld. CIT(A) in any of the notices. In view of the above facts, we restore the Appeal back to the file of the Ld. CIT(A) to decide the issue in accordance with the law as per observations given above.
17. In view of the above facts, the Appeal for Assessment Year 2015-16 is allowed for statistical purposes.
18. Similar facts exist for Assessment Year 2017-18. Both the parties agreed that their submission also remains the same. In view of our decision for Assessment Year 2015-16 wherein we have restored the issue back to the file of the Ld. CIT(A) to decide the issue a fresh, with similar direction, we restore back this appeal also to the file of the Ld. CIT(A).
19. In the result, this appeal is allowed for statistical purposes.

20. In the result, both these Appeals are allowed for statistical purposes.

Order pronounced in the open court on 31<sup>st</sup> December 2025.

Sd/-  
(SOUNDARARAJAN K.)  
JUDICIAL MEMBER

Sd/-  
(PRASHANT MAHARISHI)  
VICE-PRESIDENT

Bangalore,  
Dated, the 31<sup>st</sup> December 2025.

\*TNTS\*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore