

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
ITA No. 7310/MUM/2025 (AY : 2016-17)**

*(Physical hearing)*

Jai Bhavani Reti Utpadak Sahakar Sanstha Ltd. At Naringi Post Virar, Vasai-Virar, Maharashtra – 401201. [PAN No. AAATJ6207E]	Vs	ITO, Ward-4(1), Thane Ashar IT Park, Thane, Maharashtra – 400602.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Dnyanesh Patade a/w Ms. Akshata Bambardekar, CA's
Revenue by	Shri Akhtar Hussain Ansari, Sr. DR
Date of institution of appeal	12.11.2025
Date of hearing	20.01.2026
Date of pronouncement	20.01.2026

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. This appeal by assessee is directed against the assessment order of Id. CIT(A)/NFAC dated 20.08.2025 for A.Y. 2016-17. The assessee has raised the following grounds of appeal:

*"1. The learned AO, without considering that the learned AO had issued the SCN WHERE the additions were proposed on the cash deposited by the assessee in the course of its activity, however in the final assessment the AO has made additions on the basis that the person depositing the money is not the member of society Thus, passing the order against the principle of Draft Order under section 147 read with section 1448 (xii) of the Act, As such aggregate additions of u/s 69A of Rs. 27,00,000/- may please be deleted.*

*2. On the facts and in the circumstances of the case and in law the Learned CIT(A) has erred in confirming addition made by 2 AO of Rs. 27,00,000/- under Section 69A of the Income Tax Act, 1961 without providing the opportunity to the assessee in the interest of natural justice.*

*3. The learned CIT(A) has erred in confirming the AO stand on disallowing the deduction u/s 80P in the computation of Income, 3 without giving any reasons in the assessment order passed u/s 147 for not allowing the same. Assessee pleads that the same should be allowed.*

- 4. Without prejudice, even if some part of the receipts is considered outside mutuality, the addition ought to have been restricted to a profit rate, following the principle of taxation, instead of the arbitrary addition of the full amount.*
- 5. On the facts and in the circumstances of the case and in law the Learned CTT(A) has erred in not allowing not allowing the TDS credit of Rs. 4,75,629/- appearing in 26AS, in the computation of taxes payable.*
- 6. The appellant craves for additional grounds of appeal as earlier stated in form 36.*
- 7. The appellant craves to leave, to add, to alter OR modify the grounds of appeal, as stated above, at any time on OR before the hearing of appeal."*

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that though the assessee has raised multiple grounds of appeal, however, substantial ground of appeal relates to addition under section 69A of Rs. 27,00,000/-, disallowance of deduction under section 80P and not allowing credit of TDS shown in form 26AS. At the time of hearing, the Id. AR of the assessee submits that he is not pressing ground against not allowing credit of TDS. Therefore, such ground of appeal may be dismissed as not pressed. Considering the plea of Id. AR of the assessee, ground no. 5 which relates to not allowing TDS credit is dismissed as not pressed.

3. Against the addition of Rs. 27,00,000/-, the Id. AR of the assessee submits that no show cause notice was issued by assessing officer (AO) before making such addition. The AO issued notice in respect other transactions. In response to such notice the assessee furnished details. From the details furnished by assessee the AO held that there was a deposit of Rs. 27,00,000/- in the bank account of assessee society by Kailash Hari Patil. Kailash Hari Patil is not a member of society as per the list provided by society. The Id. AR of the assessee carried me through show cause notice

dated 21.02.2024 wherein no such explanation was sought from assessee. Before Id. CIT(A), the assessee raised specific ground of appeal that no such show cause notice was given to the assessee before making such addition on account of unexplained credit. The Id. CIT(A) still confirmed the action of AO by holding that assessee has not discharged his onus. It was further, held that during appellate proceedings, the assessee failed to furnish any documentary evidence. The identity, creditworthiness and genuineness remain unexplained. The Id. AR of the assessee submits that assessee has furnished details of depositor in the form of KYC. The depositor is the son of Hari Patil, who is key person of the society. The payment was made through banking channel. The deposits were made by relatives of members of purchase of diesel. The Id AR of the assessee prayed for deleting the addition.

4. On the disallowance of deduction under section 80P, the Id. AR of the assessee submits that assessing officer has not discussed about such disallowance in the assessment order, however, he has issued show cause notice on such issue. In the show cause notice, the assessing officer noted that as per the condition of section 80AC, deduction under section 80P cannot be allowed as the assessee has not made any claim in the return of income. Before Id. CIT(A), the assessee in its submission submitted that due to mistake of founder members duplicate PAN were issued first being "AAATJ6207E" and second "AACAF1955C". First PAN was issued in the capacity of Trust and second in the capacity of Society. When this ambiguity was brought in the notice of existing member, they try to cancel wrong PAN

no. issued in the status of trust, however, such PAN could not be cancelled due to ongoing reassessment proceeding. The deduction under section 80P relates to specific activities of the assessee and is allowable deduction under section 80P(2)(a)(vii) of the Act. Being a co-operative society, the assessee is eligible for such deduction.

5. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the Revenue, on the addition of section 69A of unexplained money submits that assessee failed to furnish identity, creditworthiness and genuineness of transaction. Though, there is no reference in the assessment order about issuance of specific notice, the AO must have issued such notice. Before, Id CIT(A), the assessee failed to provide details of such creditor. The assessee failed to prove the identity, creditworthiness and genuineness of transaction. Even otherwise such details, as claimed by assessee, was given in the form of KYC were not verified by lower authorities as the assessee has not discharged his onus. On the disallowance of under section 80P, the Id. Sr. DR for the revenue submits that that assessee has not filed return of income in time nor such claim was made in the return filed in response to notice under section 148. In the absence of any claim in the return of income, the assessee is not eligible for such deduction. The assessee itself as committed regularly in obtaining duplicate PAN's, one in the name of trust and another in the name of co-operative society. Thus, the assessee is not eligible for any relief
6. I have considered the submission of both the parties and gone through the orders of lower authorities. First issue for my consideration relates to addition

of unexplained credit of Rs. 27,00,000/-. I find that AO made such addition as per his conclusion in para 5 of assessment order. The AO on the basis of details furnished by assessee recorded that on verification of details, he found that Kailash Hari Patil who is not a member of society has deposits Rs. 27,00,000/- in the bank account. There is no material available on record about such credit. The AO added such deposit of Rs. 27,00,000/- under section 69A and taxed under section 115BBE. Before Id. CIT(A), the assessee in statement of fact explained that such deposits were made by the relatives of member. The KYC document of such person was furnished. The Id. CIT(A) confirmed the action of assessing officer that assessee has not discharged his onus. The assessee has not proved any identity, creditworthiness and genuineness of transaction. On independent consideration of fact, I find that there is no reference in the assessment order, if before making such addition any show cause notice was issued by assessing officer. However, facts remain the same that during the first appellate proceedings, the assessee has not discharged its onus in proving the identity, creditworthiness and genuineness of transaction. Mere making submission that creditor is the relatives of a member and his KYC of such person was furnished, is not sufficient to discharge onus again the addition under section 69A. In the KYC document, the assessee has not specified as to what kind of document was furnished. Under the Income Tax proceeding KYC compliance is not sufficient to discharge the onus about unexplained credit. Considering the overall facts and circumstances of the case, I deem it appropriate to restore this issue to the file of AO to reconsider the issue afresh. The assessee is directed to file

details of identity of the person, his creditworthiness and the genuineness of transaction.

7. So far as, other disallowance which relates disallowance under section 80P. I find that assessee is a co-operative society. Due to mismatch/ duplicate in the PAN, which is in the status of trust, the assessee may not be able to furnish details of various sub-head of deduction of section 80P as the system (ITBA) may not allowed. As the PAN relates to trust wherein such deductions are not available. Therefore, claim of assessee is treated as additional claim and restore back to the file of assessing officer to verify the details of deduction under section 80P(2)(a)(vii) and allow relief in accordance with law. The assessee is also given liberty to file appropriate application before AO for correction of PAN and its status and to also fulfilled requisite condition if so required for cancelling PAN in the status of trust that AAATJ6207E and to consider the case of assessee under the PAN in the status of society.
8. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open Court on 20/01/2026.

Sd/-

**PAWAN SINGH**  
**JUDICIAL MEMBER**

MUMBAI, Dated: 20/01/2026  
*Biswajit*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai