

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

**BEFORE SHRI VIKRAM SINGH YADAV, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA Nos.5649, 5650 & 5651/Mum/2025
(Assessment Years: 2018-19, 2020-21 & 2020-21)

M/s. More Mauli Co-op Credit Society Limited, 7/12, Khimji Nagji Chawl, Senapati Bapat Marg, Lower Parel, Mumbai – 400 013	Vs.	Income Tax Officer, Ward 22(2)(1), Mumbai
PAN:AAAAM7752L		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Viraj Mehta, AR
Respondent by	:	Shri Annavaram Kosuri, Sr. AR

Date of Hearing	:	29.01.2026
Date of Pronouncement	:	30.01.2026

ORDER

Per Kavitha Rajagopal, JM:

The captioned appeals are filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’ for short], National Faceless appeal Centre (“NFAC” for short) passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Years (‘A.Y.’ for short) 2018-19, 2020-21 & 2020-21. As the facts are identical in these appeals, we hereby pass a consolidated order by taking the facts of ITA No.5649/M/2025 as the lead case.

2. The assessee has raised the following grounds of appeal:

“Ground No. 1: Rejection of Condonation of Delay



a. That the National Faceless Appeal Centre (NFAC) erred in law and on facts in refusing to condone the delay of 1,355 days in filing the appeal by the appellant. The appellant submits that the delay occurred due to reasons beyond its control and deserved consideration. The NFAC, however, rejected the condonation application on the ground that it did not find the facts and circumstances of the delay to be reasonable or convincing, and consequently, did not admit the appeal.

b. The appellant respectfully submits that the NFAC ought to have considered the totality of circumstances and, in the interest of justice, condoned the delay to allow the appeal to be adjudicated on its merits. The rejection of condonation has caused undue prejudice to the appellant, denying a fair opportunity of hearing.

Ground No. 2: Disallowance of Deduction u/s 80P(2)(a) (i) of the IT Act, 1961 for Interest on Investments in Co-operative Banks is bad in law

a. The Appellant, a co-operative credit society, submits that the Assessing Officer has erroneously disallowed the deduction u/s 80P(2)(a) (i) of the Income Tax Act, 1961 for the interest earned on investments made with co-operative banks. The Interest earned from these investments qualifies for a deduction under the mentioned provision as it is derived from investments made in other co-operative societies including Co-operative banks which falls under the definition of "Co-operative societies.

The Entire Income earned from such activities is eligible for deduction u/s 80P(2)(8)(1) of the Act. Therefore, the order passed by the Id. Assessing Officer raising the demand is bad in law and should be deleted

Ground No. 3: Co-operative Banks are Co-operative Societies under the Income Tax Act, 1961

a. Co-operative banks are legally recognized as Co-operative Society under the Co-operative Societies Act and are governed by co-operative society rules just like other types of co-operative Societies. Therefore, income derived from Investments made in co-operative banks should qualify for the deduction u/s 80P(2)(a)(1) which allows deduction of interest or dividend Income earned from Co-operative Societies. The appellant does not engage in banking activities with the general public therefore, the exclusion under section 80P(4) does not apply to the appellant.

b. The Entire income earned from investments with co-operative banks is eligible for deduction u/s 80P(2)(a)(i) of the Act. Therefore, the order passed by the Id. Assessing Officer raising the demand is bad in law and should be deleted.



c. Refer to Case Law to the ruling in Principal Commissioner of Income-tax 1 v. Ashwinkumar Arban Co Operative Society Ltd. the High Court of Gujarat held that the interest income derived from investments in co-operative societies is eligible for deduction u/s 80P(2)(d).

Ground No. 4: Order passed u/s 144 of the Act is bad in law

a. The order passed by the Learned Assessing Officer (Ld. AO) under section 144 of the Income-tax Act, 1961 is bad in law and liable to be quashed, as the appellant was not afforded a reasonable and adequate opportunity of being heard before completion of the assessment. In the present case, due to circumstances beyond the control of the appellant, such opportunity could not be effectively availed, resulting in an ex parte assessment order. Therefore, the assessment order suffers from serious procedural infirmities and deserves to be set aside.

Ground No. 5: Levying interest under section 234A, 234B and 234C of the Act is bad in law

a. The Learned assessing officer has erred in levying interest under section 234A, 234B and 234C of the Income Tax Act, 1961 and the same needs to be deleted.

Ground No. 6: Right to Amend Grounds of Appeal

a. The Appellant reserves the right to add, amend, or delete any of the above grounds of appeal.”

3. Brief facts of the case are that the assessee is a cooperative credit society and had filed its return of income dated 22.09.2018 declaring total income at Rs.Nil after claiming exemption u/s 80P(2) of the Act amounting to Rs.63,61,338/- and the same was processed u/s 143(1) of the Act. The assessee's case was selected for complete scrutiny under CASS on the issue of “deductions from total income under chapter VIA, investments/advances/loans”. Notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The Learned Assessing Officer (“Ld. AO” for short) passed the assessment order dated 07.04.2021 u/s 144 r.w.s. 143(3A) & 143(3B) of the Act, being the best judgment assessment for the reason that the assessee has been non-compliant throughout the assessment proceeding, thereby determining the total income at



Rs.63,61,340/- after making an addition/disallowance on the said amount u/s 80P(2)(a)(i) of the Act.

4. Aggrieved, the assessee was in appeal before the first appellate authority, who vide order dated 11.07.2024 had dismissed the appeal filed by the assessee on the ground that the assessee has filed the appeal belatedly after the prescribed period of limitation and the assessee has failed to substantiate that there was 'sufficient cause' for the said delay.

5. Aggrieved, the assessee is in appeal before us, challenging the order of the Ld. CIT(A) on the abovementioned grounds.

6. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has been non-compliant during the assessment proceeding basis which the Ld. AO passed the best judgment assessment and the first appellate authority had dismissed the appeal *in limine* without getting into the merits of the case on the ground that there was a delay of 1355 days in filing the appeal before the first appellate authority and the assessee has failed to explain that there was 'sufficient cause' for the said delay.

7. Before us, the Learned Authorized Representative ("Ld. AR" for short) for the assessee contended that the assessee being a co-operative credit society had earned interest income out of the investments made by it with co-operative banks and had claimed deduction u/s 80P(2)(a)(i) of the Act. Further, the Ld. AR contended that the assessment order dated 07.04.2021 was delivered to the assessee on the same date through Income Tax



online portal and as the assessee had engaged a tax consultant who had the access to the portal failed to inform the same to the assessee. Further, the Ld. AR contended that the assessee's erstwhile tax consultant had also not advised the assessee as to the subsequent course of action and as a result the assessee's refunds were adjusted for the outstanding demands. The Ld. AR stated that it was brought to the knowledge of the assessee only when the entire refund for A.Y. 2024-25 was adjusted against the said demand on 25.11.2024, after which the assessee had replaced another chartered accountant to look into the tax matters of the assessee. It was only after that the assessee was advised to file an appeal before the Commissioner of Appeals, by which time the appeal was barred by limitation by 1355 days. The Ld. AR stated that the assessee had also filed an application along with an affidavit for condoning the said delay and the Ld. CIT(A) dismissed the same *in limine* stating that there is no 'sufficient cause' for the delay. The Ld. AR prayed that the assessee be given one more opportunity to present its case before the lower authorities for the reason that the issue on the merits is already covered in favour of the assessee by the decision of the Hon'ble Apex Court, High Courts and the co-ordinate Benches of the Tribunal.

8. The Learned Departmental Representative ("Ld. DR" for short), on the other hand, vehemently opposed to setting aside this issue to the lower authorities for the reason that the assessee has been non-complaint throughout the assessment proceeding and had also filed the appeal before the appellate authority with an inordinate delay beyond the period of limitation. The Ld. DR relied on the order of the lower authorities.



9. In the above factual matrix of the case, it is observed that the assessee has been non-compliant and hence the Ld. AO passed best judgment assessment against which the assessee preferred an appeal before the first appellate authority with a delay of 1355 days, which was not condoned by the Ld. CIT(A) citing that the assessee did not have 'sufficient cause' for the said delay and further it has been held that the assessee was negligent in not filing the appeal within the period of limitation. The Ld. DR pointed out the recalcitrant attitude of the assessee before the Ld. AO as well. Having considered the contentions, we are conscious of the fact that the assessee has preferred the first appeal with an inordinate delay, which according to the assessee is not attributable to the assessee who would anyways be benefited from filing the appeal, as the issue on the merits seems to be covered in favour of the assessee by the decisions of various Forums. We are also conscious of the fact that the assessee cannot be punished for the negligent act of the counsels engaged by it for adjudicating the matter before the lower authorities as there are several decisions of the higher forums which has held that the parties cannot suffer for the act of the counsels. By adhering to the principles of natural justice and in the interest of justice dispensation, we deem it fit to extend the assessee with one more opportunity to present its case before the Ld. AO by imposing a cost of Rs.10,000/- for each of the appeal, which the assessee will have to deposit in the Prime Minister Relief Fund within one month from the date of receipt of this order and furnish the receipt of the same to the Ld. AO. We direct the assessee to strictly comply with the proceeding before the Ld. AO and the Ld. AO is also directed to decide the issue on the merits and in accordance with law based on the



submission of the assessee. We have not given our view on any of the issues on the merits of the case which has to be decided *denovo* by the Ld. AO.

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

11. The finding given in this appeal i.e. ITA No.5649/M/2025 will apply *mutatis mutandis* to ITA No.5650 & 5651/M/2025 as well. Accordingly, all the three appeals filed by the assessee are hereby allowed for statistical purposes.

Order pronounced in the open court on 30.01.2026

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 30.01.2026

* Kishore, Sr. P.S.

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai