

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
I.T.A. No. 5458/Mum/2025
Assessment Year: 2020-21

Ambika Co-operative Housing Society Limited CTS No. 89B Off Mahakali Caves Road Andheri East Mumbai - 400093 [PAN: AAAA9504E]	Vs.	Income Tax officer, Ward – 24(1)(1), Mumbai
(Appellant)		(Respondent)

Assessee by	Shri R.M. Hagir, AR
Revenue by	Shri Limbasiya Kavan Nareshkumar, Sr. DR

Date of Hearing	03.02.2026
Date of Pronouncement	06.02.2026

ORDER

Per Smt. Beena Pillai, JM:

Present appeal filed by assessee arises out of order dated 02/07/2025 passed by NFAC, Delhi [hereinafter “the Ld.CIT(A)”], for Assessment Year 2020-21, on the following grounds of appeal:-

“1. The learned ADDL/JIT (A)-1 GUWAHATI, hereinafter referred to as, The CIT(A) erred in dismissing the appeal by not condoning the delay in filing the appeal.

2. The learned ADDL/JIT (A)-1 GUWAHATI, hereinafter referred to as, CIT(A) erred in not allowing deduction of Rs.3,82,160.00 u/s.80P(2)(d) of the Income Tax Act, 1961 on account of interest received from Co-operative Bank on Fixed deposits.

3. The CIT(A) erred in levying the interest u/s.234B of Rs.22,059.00 and u/s.234C of Rs.5,862.00.

The appellant carves leave to add, amend, alter or delete any of the ground of appeal in the course of hearing of appeal or before the hearing of appeal.”

2. At the outset, the Ld. AR submitted that there was a delay of 1080 days in filing the appeal before Ld.CIT(A) which was not

condoned. He submitted that the assessee was disallowed the claim of deduction u/s 80P by CPC vide intimation dated 25/11/2021 passed u/s 143(1)(a) of the Act. The Ld. AR submitted that upon receipt of the same, the assessee proceeded to file a rectification petition u/s 154 of the Act, which was disposed of by order dated 03/03/2022. The Ld. AR submitted that, in the meantime, the managing committee of the assessee underwent a change and it was only when the assessee received the demand notice that it came to its knowledge about the order having passed by the Ld. First Appellate Authority.

2.1. The Ld. AR further submitted that the delay of 1080 days cannot entirely be attributed to the assessee, as the assessee was pursuing an alternative remedy u/s 154 of the Act, thereby causing the delay. He submitted that the order passed u/s 154 of the Act was also not received by the assessee through e-mail and that the assessee subsequently collected it upon being informed by the department, after which immediately the appeal was filed before the Ld.CIT(A). He thus submitted that the assessee may be granted one more opportunity of being heard, as the assessee is a co-operative society working on the principle of mutuality and its entire income is claimed to be exempt under Chapter VI-A of the Act.

2.2. On the contrary, the Ld. DR placed reliance on the orders passed by the authorities below and submitted that sufficient case has not been made out by the assessee for the delay in filing the appeal before the Ld.CIT(A).

Perused the submissions advanced by both sides in light of the material placed on record.

3. It is noted that, the only claim raised by the assessee in its return of income relates to deduction u/s 80P(2)(d) of the Act, which was disallowed by CPC. The view of the *Tribunal* on this issue is by and large settled in light of the decision of the *Hon'ble Supreme Court* in the case of *Kerala State Cooperative Agricultural and Rural Development Bank vs. AO* reported in (2023) 154 *taxmann.com* 305 (SC).

3.1. In the interest of justice, the issue is remitted back to the file of the Ld. AO to consider the claim of the assessee in accordance with the ratio laid down in the aforesaid decision, wherein the claim of interest on fixed deposits has to be considered u/s 80P(2)(d) of the Act. It may be noted that, if such interest is earned from co-operative banks, not holding a licence to function as a bank under the RBI, the deduction is to be allowed. On the contrary, if any portion of such interest cannot be considered u/s 80P(2)(d) in view of the observations of the *Hon'ble Supreme Court* in the aforesaid decision, the same shall be assessed as income from other sources after allowing deduction of expenditure u/s 57 of the Act. The assessee is directed to furnish all relevant documents to assist the Ld.AO to verify its claim. Needless to say that proper opportunity of being heard must be granted to assessee.

Accordingly, the grounds raised by the assessee are partly allowed for statistical purposes.

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

Order pronounced in the open court on 06/02/2026

Sd/-

**(BEENA PILLAI)
Judicial Member**

Mumbai
Dated: 06/02/2026
SC Sr. P.S.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

(Asstt. Registrar)
ITAT, Mumbai