

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

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT**

<b>ITA No. 2449/Bang/2025</b>
<b>Assessment Year : 2017-18</b>

M/s. Nadhashri Credit Co-operative Society Ltd., Kukkikatte, Udupi, Karnataka – 576 101. <b>PAN: AACAN2502R</b>	<b>Vs.</b>	The Income Tax Officer, Ward-1 & TPS, Udupi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Prasanna Shenoy, CA
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Department

Date of Hearing	:	18-12-2025
Date of Pronouncement	:	11-02-2026

**ORDER**

**PER PRASHANT MAHARISHI, VICE – PRESIDENT**

1. The captioned Appeal is directed against the Appellate Order passed by the Joint Commissioner of Income Tax (A) – 13, Mumbai in case of M/s. Nadhashri Credit Co-operative Society Ltd., for Assessment Year 2017-18 dated 02.09.2025 wherein the Appeal filed by the Assessee against the Assessment Order passed by the Income Tax Officer, Ward-1, Udipi on 02.12.2019 u/s. 144 r.w.s. 142(1) of the Income Tax Act, 1961 was dismissed.
2. The Ld. CIT(A) dismissed the Appeal of the Assessee for the reason that it was delayed by 179 days and according to the Ld. CIT(A) the Assessee could not show the sufficient cause for delay in filing of the Appeal.

3. In substance, the claim of the Assessee is that deduction u/s. 80P(2)(a)(i) of the Income Tax Act, amounting to Rs. 10,54,756/- in case of a member's co-operative society was denied.
4. We have heard the rival contention of Shri Prasanna Shenoy, CA from the side of the Assessee and Shri Ganesh R Ghale, Standing Counsel for Revenue.
5. The briefly stated the facts of the case shows that Assessee is a co-operative society registered under the Karnataka State Co-operative Societies Act carrying on the business of providing credit facilities to its members. It filed its return of income in response to notice u/s. 142(1) of the Act on 19.11.2019 and claimed a deduction of Rs. 10,54,756/- u/s. 80P(2)(a)(i) of the Act. The Assessee did not file original return of income.
6. It was found that the Assessee has deposited a sum of Rs. 29,62,000/- with Axis Bank during demonetization period. Therefore, a notice u/s. 142(1) was issued which was responded to by filing of the return of income and claiming deduction u/s. 80P of the Act. The claim of the Assessee is that the manual return was filed on 27.11.2019 as on the ITD portal, such returns were not uploaded due to technical glitches. The Ld. Assessing Officer held that Assessee Co-operative Society is not eligible for deduction u/s. 80P of the Act. Thus, the total income of the Assessee u/s. 144 was assessed at Rs. 10,54,756/- by an Assessment Order passed u/s. 144 r.w.s. 142(1) of the Income Tax Act, 1961 on 13.12.2019.
7. On Appeal before the Ld. CIT(A) admittedly, the Appeal was delayed. It was stated that the order was received by the Assessee on 20.12.2019. However, the Appeal was instituted on 29.06.2020. Therefore, there is a delay of 179 days. At point no. 15 of form no. 35, the Assessee submitted the reason for delay stating that the accountant who received the notice of demand in physical form did

not forward the same to the Chartered Accountant in time due to oversight. Further, when the Chartered Accountant was informed about the order later on, it was stated that same are not available in the Income Tax portal even till the date of filing of the Appeal. The Assessee also stated that because of the COVID period in the month of March 2020 when it came to the notice of the Assessee, COVID-19 lockdown was going on and there was no movement. When the lockdown was opened partially, the Appeal was filed and therefore the delay in filing of the Appeal was for bonafide reason and therefore needs to be condoned. The Ld. CIT(A) issued a notice to the Assessee perused the above reason. He held that reasons are not convenient and not acceptable as the issue pertains to the error at the Appellant. He further held that the lockdown started on 25.03.2020 which is 3 months after the due date of the filing of the Appeal and therefore the delay was not condoned, and Appeal was not admitted. The Assessee is in appeal.

8. The Ld. Authorized Representative vehemently submitted that there are twin reasons stated by the Assessee before the Ld. CIT(A). First stated that the Accountant of the Assessee who received the notice of demand notice and order could not forward the same to the Chartered Accountant in time due to oversight. Further, the Chartered Accountant who was advising the Appellant did not find that Assessment Order and notices are available on the ITBA website. It was categorically stated that till 29.06.2020, no such orders were available on the ITBA portal. Thereafter, there was a COVID-19. Therefore, part of the reason is on account of the Assessee, part of the reason for delay is on account of the Income Tax Department and part of the delay is due to COVID. The Ld. CIT(A) failed to consider to these three aspects.

9. The Ld. Standing Counsel for Department, Shri Ganesh R Ghale supported the order of the Ld. CIT(A) and submitted that even otherwise the return was delayed, and Assessee is not entitled to deduction u/s. 80P in view of section 80AC.
10. We have carefully considered the rival contention and perused the order of the Ld. CIT(A) who did not admit the Appeal of the Assessee because of delay of 179 days in filing of the Appeal. The Assessee has explained the delay in 3 parts. Part I of that is on account of the Accountant of the Assessee who did not submit the Assessment Order received by him to the Chartered Accountant. So far as this cause is definitely on part of the Assessee as its employee did not perform the duty. Secondly, there is a categorical statement in form no. 35, that as on the date of filing of the Appeal, which is delayed by 179 days, the Assessment Order was not available on portal. This is not controverted by Ld. CIT(A). Therefore, the cause of the delay lies on the part of the revenue. Thirdly., Further, with effect from 25.03.2020 COVID-19 set on and the Appeal was filed on 29.06.2020. Therefore, part of the delay was on account of COVID.
11. Therefore, in my view, the Ld. CIT(A) should have held that there is a sufficient cause in delay in filing of the Appeal by 179 days. The Ld. CIT(A) has stated that the whole delay is on account of the error on the side of the Assessee. I find that there is no error on the side of the Assessee but error on the side of the accountant he forgot to give the orders to the Chartered Accountant. The error is on the side of the Income Tax Department where despite passing the Assessment Order, same was not available on the ITBA portal and therefore till that date it could not be said that the Assessment Order is passed and received by the assessee. Further the COVID-19 is a global incident. Thus, I find that the order of the Ld. CIT(A) in not condoning the delay of 179 days is not sustainable and hence quashed. Accordingly, I restore the whole Appeal back to the file of

the Ld. CIT(A) with a direction to decide the same on the merits of the case. The Assessee is directed to submit the explanation before him as soon as the window of appeal is opened.

12. In the result, Appeal filed by the Assessee is allowed.

Order pronounced in the open court on 11<sup>th</sup> February, 2026.

Sd/-  
(PRASHANT MAHARISHI)  
VICE-PRESIDENT

Bangalore,  
Dated, the 11<sup>th</sup> February, 2026.

\*TNTS\*

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore