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

BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT

ITA No. 2300/Bang/2025
Assessment Year: 2017-18

M/s. Adaragunchi Mahila Co-operative Credit Society Limited, At Post Adargunchi, Tq Hubli, District Dharwad, Adargunchi, Karnataka – 580 212. **PAN: AAEAA4674K**	**Vs.**	The Income Tax Officer, Ward-2(1), Hubli.
APPELLANT		**RESPONDENT**

Assessee by	**:**	Shri Sam Moncy, Advocate
Revenue by	**:**	Shri Ganesh R Ghale – Advocate, Standing Counsel for Revenue

Date of Hearing	**:**	16-12-2025
Date of Pronouncement	**:**	12-02-2026

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. ITA No. 2300/Bang/2025 is filed by M/s. Adaragunchi Mahila Co-operative Credit Society Limited (the Assessee/Appellant) for Assessment Year 2017-18 against the Assessment Order passed by the National Faceless Appeal Centre, Delhi dated 05.08.2025 wherein the Appeal filed by the Assessee before him on 23.12.2024 against the Assessment Order passed u/s. 143(3) of the Income Tax Act, 1961 by the Income Tax Officer, Ward-2(1), Hubli (the Assessing Officer) passed on 15.11.2019, which

was delayed by 1835 days was dismissed in limine. The Assessee is aggrieved and is in appeal.

2. Brief facts of the case shows that the assessee is a credit cooperative society filed its return of income on 31st of March 2018 declaring a total income of ₹ 593,070 after claiming the deduction under section 80 P (2) (a) (i) to the extent of ₹ 1,368,234/–. The return of income was picked up for scrutiny by issuance of notice under section 143 (2) on 13 August 2018 as well as notice under section 142 (1) on 17 June 2019. The only issue examined during the course of assessment proceedings was that whether the assessee is eligible for deduction under section 80 P of the act and whether the interest income earned by the assessee on its own fund is taxable under the head income from other sources under section 56 or not. Further the assessee has earned a godowns rent of ₹ 90,302/– which is credited to the profit and loss account and whether the same is eligible for deduction as business income or is chargeable to tax under the head income from house property.

3. The learned assessing officer during the course of assessment proceedings found that there are 2684 regular members and 642 associate members of the society as on 31st of March 2017. Therefore, the concept of mutuality the basic requirement for deduction under section 80 P is missing in this case. The learned assessing officer therefore held that the assessee cannot be treated as a co-operative society meant only for its members and providing credit facilities to its members only as it has carved out a category called nominal members. The learned assessing officer noted that the decision of the honourable

Supreme Court in case of citizen cooperative society Ltd squarely applies to the facts of the case and therefore the assessee is not entitled to deduction under section 80 P (2) (a) (I) of the act to the extent of ₹ 634,805/–. He further noted that assessee has a huge reserve to the extent of ₹ 8,993,535 and society has accepted the deposits from its members to the extent of ₹ 6.66 crores whereas advanced to the members is only to the extent of ₹ 6.15 crores and therefore balance which is not immediately required for business purpose has been invested in the fixed deposits along with its own reserve fund to the extent of the above sum of ₹ 8,993,535/– and also from its sale capital. The society according to the learned assessing officer should have offered a sum of ₹ 1,611,571/– to tax under the head income from other sources under section 56 of the act as per the ratio of the decision of the honourable Karnataka High Court dated 16 June 2017. Accordingly, he disallowed a deduction of ₹ 1,611,571/– under section 80 P (2) (a) (I) of the act. Similarly, the AO found that assessee has also claimed deduction on godowns rent of ₹ 95,830 which is not eligible for deduction as it is chargeable to tax under the head income from house property.

4. The second issue found by the learned assessing officer that assessee has deposited cash of ₹ 2,830,000 during the demonetization period specified banking notes in 5 different bank accounts of the assessee which was explained by the assessee that same was deposited out of the funds received from the members, however the learned assessing officer was of the view that the above sum of ₹ 2,830,000/– is required to be taxed under section 68 of the income tax act and is

chargeable to tax under section 115BBE of the act. Accordingly, the assessment order was passed determining total income of the assessee at ₹ 4,383,039/– wherein the assessing officer taxed a sum of ₹ 1,611,571/– as income from other sources and denied deduction under section 80 P of the act.

5. The learned assessing officer on 15/11/ 2019 passed an order of assessment under section 143 (3) of the income tax act.
6. On the same date the learned assessing officer passed an order under section 154 read with section 143 (3) of the income tax act on 15/11/2019 which is worded identically as the assessment order determining the total income of the assessee at ₹ 4,833,039.
7. The assessee preferred an appeal against the order passed under section 143 (3) of the act dated 15/11/2019 before the learned CIT – A on 23/12/2024. In form No. 35 the assessee submitted at serial No. 14 that there is a delay in filing of the appeal and at serial No. 15 the assessee submitted the reason for such delay. The reason for delay was stated that assessee has filed appeal against the order passed under section 154 read with section 143 (3) of the act dated 15/11/2019 before the learned CIT – A which is identically worded assessing the total income of the assessee at the same figure and therefore earlier it was thought that there is no need to file a duplicate appeal before the learned CIT – A and therefore no such appeal was filed. Later on, advice by the chartered accountant to the assessee that it is better to file an appeal against the assessment order also though appeal against the rectification order is already pending before the learned CIT – A. Accordingly the appeal was filed before the learned CIT –A which was late

by 1835 days. The learned CIT – A did not condone the delay and dismissed the appeal of the assessee is not admitted and therefore assessee is in appeal before us.

8. The learned authorized representative has furnished a paper book containing 74 pages. The claim of the Assessee is that in Form No. 35, the Assessee stated that there is delay in filing the Appeal and at sl. No. 15 has stated a detailed annexure showing the reasons for delay in filing Appeal. Assessee has also referred to the application for condonation of delay which was also supported by the affidavit. The brief facts were stated that when the Assessee received the Assessment Order, the Ld. Assessing Officer further passed an order u/s. 154 r.w.s. 143(3) of the Act on 15.11. 2019 wherein similar contentions were repeated as were made in Assessment Order passed on 15.11.2019. The additions u/s. 68 were made of Rs. 23,80,000/- and further addition to the business income from other sources were made of Rs. 14,09,969/-. Aggrieved with the rectification order passed u/s. 154 of the Act as it is *pari Materia* the same as the Assessment Order the Assessee preferred an Appeal against that rectification order well within a limitation period on 13.12.2019. Later, on consultation the Assessee was advised that the addition in the Assessment Order u/s. 148(3) of the Act as well as the rectification order passed u/s. 154 of the Act are *pari Materia* same, but on the safer side, the Assessee must also file an Appeal against the Assessment Order u/s. 143(3) of the Act. Consequently, the Assessee filed an Appeal against the Assessment Order also. Therefore, the Appeal filed in response to the Assessment Order having the same substance is delayed by 1835 days which is for sufficient cause and may be

condoned. The Ld. CIT(A) did not consider the same and held that there is no cogent justification for 1835 days delay. Thus, Appeal of the Assessee is dismissed in limine. Aggrieved with the same, the Assessee is in appeal.

9. The Ld. Authorized Representative reiterated the same facts, submitted the order passed u/s. 154 of the Act dated 15.11.2019 which is similar to the Assessment Order but is totally as rectification order passed u/s. 154 r.w.s. 143(3) of the Act. He submitted that Assessee is in Appeal before the Ld. CIT(A) against that order but as the Assessee has been advised that apparently, both the orders are same, the Assessee should have filed an Appeal under the original Assessment Order also because the scope of the provisions of section 143(3) and section 154 of the Act are different. He submits that when the Assessee is pursuing Appeals on the same ground, the delay should have been condoned, and Appeal should have been admitted by the Ld. CIT(A) and decided on the merits of the case.

10. With respect to the merits of the case, he submitted that Assessee is a co-operative society which is entitled to deduction u/s. 80P(2)(a)(i) of the Act which was denied to the Assessee. He submitted that the deduction under section 80 P (2) (a) (i) of the act is directly decided by the honourable Karnataka High Court in favour of the assessee in the decision of Guttigedarara Credit Co-operative Society Ltd. vs. Income-tax Officer, Ward 2(2), Mysore [2015] 60 taxmann.com 215 (Karnataka)/[2015] 234 Taxman 476 (Karnataka)/[2015] 377 ITR 464 (Karnataka)[09-06-2015], Tumkur Merchants Souharda Credit

Cooperative Ltd. vs. Income-tax officer Word-V, Tumkur [2015] 55 taxmann.com 447 (Karnataka)/[2015] 230 Taxman 309 (Karnataka)[28-10-2014] and Principal Commissioner of Income-tax, Hubli vs. Totagars Co-operative Sale Society [2017] 78 taxmann.com 169 (Karnataka)/[2017] 392 ITR 74 (Karnataka)[05-01-2017]. It was further stated that Assessee has deposited cash of Rs. 28,30,000/- in bank accounts during demonetization period received from its members were added u/s. 68 of the Act. Merely because the above amount was deposited during demonetization, he submitted that Assessee has submitted the name of the depositor, account number, date wise account deposit received from its members. He submits that merely because the Assessee was not authorized to accept the specific banking notes, the addition was made. He submits that both the above additions and disallowance could not have been sustained.

11. The Ld. Departmental Representative Shri Ganesh R Ghale, Advocate, Standing Counsel for Revenue, vehemently submitted that huge delay of 1835 days in filing of the Appeal has rightly not been condone by the Ld. CIT(A). However, when the Assessee deposited the specific banking notes during the demonetization period, Assessee is not authorized to accept the same and therefore same is added correctly u/s. 68 of the Act.

12. We have carefully considered the rival contentions and perused the orders of the ld. Lower authorities. In this case assessee, aggrieved with the order of the ld. AO preferred an appeal before the ld. CIT (A) which is delayed by 1835 days. The reason shown by the assessee is that two identical orders were

passed by the ld. AO, One u/s 143(3) of the Act and another u/s 154 of the Act. Both the orders are verbatim same. So, we do not know what for these two orders were passed by the ld. AO. Even ld. DR could not explain the same. Be that as it may, Assessee filed an appeal against the Rectification order which is stated to be passed u/s 154 of the Act. It did not initially file appeal against the assessment order passed u/s 143(3) of the act. This appeal was filed late by 1835 days. Both appeals are also same. This appeal was not filed earlier because assessee was under the bona fide belief that as both the appeals are in substances same, there is no need to duplicate it. But later, on apprehension that perhaps the appeal filed against order titled "u/s 154 of the Act "will have lesser leverage in favor of the assessee than appeal filed "against order u/s 143(3) of the Act/". Thus, the appeal was filed. In condonation petition all these facts were stated but ld. CIT (A) did not condone the delay. We find that both are the alternative remedies of appeal preferred by the assessee, and there is nothing wrong if assessee had a bona fide belief that both the orders in substances are same, appeal against any of them would serve the purposes of the assessee. Bit out of abundant precaution later this appeal was filed, thus, we find that delay in foiling of appeal of 1835 days is for sufficient cause and deserves to be condoned. Thus, we hold that the ld. CIT (A) is not right in not condoning the delay in filing of the appeal. We reverse the orders of CIT (A) on this count. We allow ground No. 2 – 6 of the appeal.

13. Further as the issue of deduction under section 80 P (2) (a) (i) is squarely covered in favour of the assessee by the decision of

the honourable Karnataka High Court in case of He submitted that the deduction under section 80 P (2) (a) (i) of the act is directly decided by the honourable Karnataka High Court in favour of the assessee in the decision of Guttigedarara Credit Co-operative Society Ltd. vs. Income-tax Officer, Ward 2(2), Mysore [2015] 60 taxmann.com 215 (Karnataka)/[2015] 234 Taxman 476 (Karnataka)/[2015] 377 ITR 464 (Karnataka)[09-06-2015], Tumkur Merchants Souharda Credit Cooperative Ltd. vs. Income-tax officer Word-V, Tumkur [2015] 55 taxmann.com 447 (Karnataka)/[2015] 230 Taxman 309 (Karnataka)[28-10-2014] and Principal Commissioner of Income-tax, Hubli vs. Totagars Co-operative Sale Society [2017] 78 taxmann.com 169 (Karnataka)/[2017] 392 ITR 74 (Karnataka)[05-01-2017]. Therefore the disallowance made by the learned assessing officer of ₹ 1,611,571/– treating the bank interest as income from other sources is not sustainable. As the issue is directly covered in favour of the assessee by the three decisions of the honourable jurisdictional High Court we direct the learned assessing officer to delete the disallowance of deduction under section 80 P of the act in the hence of the assessee. Accordingly ground No. 7 – 11 of the appeal are allowed.

14. As on the merits of the addition of ₹ 2,380,000 under section 68 of the income tax act,, the ld. CIT (A) has not passed any order, we restore the appeal back to the fil of the ld. CIT (A) with a direction to the assessee to furnish the requisite details, which may be considered and appeals on the grounds raised may be decided afresh, after granting opportunity of hearing to the assessee. Accordingly ground No. 12 – 18 of the appeal are

restored back to the file of the learned CIT – A and are allowed as indicated above.

15. All other grounds of the appeal are not pressed for either general in nature and therefore those are dismissed.
16. In the result appeal filed by the assessee is partly allowed for statistical purposes as indicated above.

Order pronounced in the open court on 12th February, 2026.

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 12th February, 2026.

TNTS

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore