IN THE INCOME TAX APPELLATE TRIBUNAL,

NAGPUR "SMC" BENCH :: NAGPUR

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

ITA No.300/NAG/2025
(Assessment Year: 2017-18)

Jalsampda Karmchari Sahakari Patsanstha Maryadit Wardha, 1, Dr. Adyalkar Bhavan, Arvi Road, Shivaji Square, Wardha-442001 **PAN: AAAAW 0478 R**	Vs.	**ITO, Ward-2, Wardha.**
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Naresh Jakhotia, Ld.CA

Revenue by : Shri Surjit Kumar Saha, Ld. Sr.DR

Date of Hearing : 25.06.2025

Date of Pronouncement : 23.09.2025

O R D E R

This appeal has been preferred by the Assessee against the order dated 09/05/2024 impugned herein passed by the ADDL/JCIT (Appeals), Bhubaneswar (in short, 'Ld. Commissioner') u/sec. 250 of the Income Tax Act, 1961 (in short, 'Act') for the A.Y. 2017-18.

2. At the outset, it is observed that there is a delay of 279 days in filing of the instant appeal, on which the Assessee by filing an application for condonation of delay along with duly sworn affidavit dated 05/05/2025, has claimed as under:-

*"**3 . Reason for Delay in Filing the Appeal:***

The president of the Appellant Society was suffering from health & medical issue and so was not able to attend the meeting of the society so as to take the consent of the managing committee for deciding the further course of action. Thereafter, the society has approach one consultant at Wardha for the appeal who has assured to do so. Assessee was under the impression that the consultant would file the appeal on its own and it would be like the CIT (A). However, when appellant enquired about the status of appeal, it come to know that the appeal has not yet been filed. With this, Appellant approach another consultant who has thereafter filed the appeal.

Since the Wardha is not having the bench of ITAT, Appellant was required to appoint the consultant at Nagpur for appeal filing and consultancy. This has also taken the time for meeting and finalization.

In short the delay in filing appeal may broadly be classified as under:

S.No.	Reason	Period	Delay in Days
1	Non-attendance of the meeting by the President of the Appellant Society	July – 2024 to August – 2025	54 days
2	Consultant at Wardha	Sepetmber-2025 to January- 2025	153 days
3	Health Issue of the President of the Society	1st Feb 2025 to 15th April 2025	74 days
4	Papers submissions to the Consultant at Nagpur	16th April 2025 to 5th May 2025	20 days
		Total Days	301 days

4. Sufficient Cause for delay in filing the Appeal:

Assessee hereby declare that there was no deliberate delay or gross negligence or any malafide for delay in filing the appeal. The delay was for genuine circumstances which prevailed for delay.

In this case, the Assessee is a cooperative society, engaged in accepting deposits and providing credit facilities to its members, consist of only employees of irrigation department of Maharashtra State in Wardha District. The Assessee by filing its return of income on dated 01/11/2017 declaring total income at Rs. NIL after claiming deduction under Chapter Via (80P) at Rs. 2,12,93,856/-. Subsequently, the case of the Assessee was selected for scrutiny and consequently statutory notices were issued to the Assessee for furnishing the relevant details/documents. The Assessee, though, did not file any written submissions qua explaining the allowability of such deduction claimed u/sec. 80P(20(d) of the Act, however, in response to the notice, filed audit report in Form No. 3CB & 3CD and its annexures, computation of total income, bank statements etc."

3. Considering the reasons stated by the Assessee, which are supported by duly sworn affidavit, as genuine, unintentional and *bonafide*, the delay is condoned.

4. In this case, the Assessee is a cooperative society engaged in accepting deposits and providing credit facilities to its members, consisting of only employees of Irrigation department of Maharashtra State in Wardha District. The Assessee by filing its return of income on dated 01/11/2017 and declaring total income at Rs. NIL, claimed the deduction under Chapter VIA (80P) at Rs. 2,12,93,856/-. Subsequently, the case of the Assessee was selected for scrutiny and consequently statutory notices were issued to the Assessee for furnishing relevant details/documents. The Assessee, though, did not file any written submissions qua allowability of such deduction claimed u/sec. 80P(2)(d) of the Act, however, in response

to the notice, filed audit report in Form No. 3CB & 3CD along with annexures, computation of total income, bank statements etc.

5. On perusing the aforesaid documents, the Assessing Officer(AO) observed that the Assessee has made the investment including fixed deposits with Bank of India and Axis Bank and had received interests Rs. 6,51,733/- from Bank of India and Rs.2,51,251/- from Axis Bank. Since the said amount has been earned from other than cooperative societies, the same cannot be included in the deduction as per section 80P(2)(d) of the Act. The Ld. AO consequently, disallowed the amount of Rs. 9,02,984/- as detailed above. The Ld. AO in absence of documentary evidence of expenses debited to the profit & loss account to the tune of Rs.14,831/- as 'donation', also disallowed the same and added to the total income of the Assessee.

6. The Assessee, being aggrieved, challenged the aforesaid additions by filing first appeal before the Ld. Commissioner, however, of no avail, as the Ld. Commissioner dismissed the appeal of the Assessee, affirming the additions under consideration.

7. The Assessee, being aggrieved, has challenged the aforesaid additions/disallowances by filing instant appeal. With regard to

disallowance of Rs. 9,02,984/- u/sec. 80P(2)(a)(i), the Assessee has claimed that Hon'ble Coordinate Benches of this Tribunal in various cases including in the case of *The Ismailia Urban Co-op. Society vs. ITO* in ITA No. 122/Nag/2023, decided on 18/06/2024, has also dealt with the identical issue and ultimately allowed the identical claim *qua* deduction u/sec. 80P(2)(a)(i) of the Act by observing and holding as under:-

> *"8. The learned authorized representative vehemently submitted that both the lower authorities have seriously misapplied upon law and facts in denying the deduction under Section 80P(2)(a)(i). Even submitted before us the assessment order for the Assessment Year 2016-17, wherein in the course of assessment under Section 143(3), deduction under Section 80P(2)(a)(i) was allowed. There being no change in the underlying facts and circumstances. He pleaded, the similar deduction should be allowed in the current year also. Upon confronting these facts before the departmental representative, he pleaded that reliance may be made upon the orders of the lower authorities in view of the fact that interest from fund not required immediate for business purposes is not eligible for deduction under Section 80P.*
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> *9. Upon hearing both the counsel and perusing the record, we find that the issue involved is covered in favour of the assessee by a catena of decisions from ITAT as well as a decision of jurisdictional High Court. In this regard we may gainfully refer the Hon'ble Jurisdictional High Court decision in the case of CIT vs. Solapur Nagri Audyogik Sahakari Bank Ltd. 182 Taxman 231 wherein the following question was raised.*
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> *"Whether the interest income received by a Co-operative Bank from investments made in Kisan Vikas Patra ('KVP' for short) and Indira Vikas Patra ('IVP' for short) out of voluntary reserves is income from banking business exempt under Section 80P(2)(a)(i) of the Income Tax Act, 1961?"*
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> *After considering the issue, the Hon'ble Jurisdictional High Court has concluded as under :*
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> *"12. Therefore, in all these cases, where the surplus funds not immediately required for day-to-day banking were kept in voluntary reserves and invested in KVP/IVP, the interest income received*

from KVP/IVP would be income from banking business eligible for deduction under section 80P(2)(i) of the Act.

13. In the result, there being no dispute that the funds in the voluntary reserves which were utilized for investment in KVP/IVP by the co-operative banks were the funds generated from the banking business, we hold that in all these cases the Tribunal was justified in holding that the interest income received by the co-operative banks from the investments in KVP/IVP made out of the funds in the voluntary reserves were eligible for deduction under section 80P(2)(a)(i) of the Act."

The above case law fully supports the assessee's case. Here also surplus funds not immediately required for day to day banking were kept in Bank deposits. The income earned there from thus would be income from banking business eligible for deduction u/s 80P(2)(a)(i). 10. Similarly we find that similar issue was considered by this Tribunal on similar grounds raised by the Revenue in the case of MSEB Engineers Co-Op. Credit Society Ltd., wherein the ITAT, Nagpur Bench, vide order dated 05/05/2016 held as under:

Upon hearing both the counsel and perusing the records, we find that the above issue is covered in favour of the assessee by the decision of this ITA, referred by the Ld. CIT(A) in his appellate order. The distinction mentioned in the grounds of appeal is not at all sustainable. We further find that this Tribunal again in the case of Chattisgarh Urban Sahakari Sanstha Maryadit Vs. ITO in ITA No. 371/Nag/2012 vide order dated 27.05.2015 has adjudicated similar issue as under:-

"11. Upon careful consideration, we not that identical issue was the subject matter of consideration by ITAT, Ahmedabad Bench decision in the case of Dhanlaxmi Credit Cooperative Society Ltd (supra), in which one of us, learned Judicial Member, was a party. The concluding portion of the Tribunal's decision is as under:

"4. With this brief background, we have heard both the sides. It was explained that the Co-operative Society is maintaining "operations funds" and to meet any eventuality towards repayment of deposit, the Co-operative society is maintaining some liquidated funds as a short term deposit with the banks. This issue was thoroughly discussed by the ITAT "B" Bench Ahmedabad in the case of The Income Tax Officer vs. M/s.Jafari Momin Vikas Co-op Credit Society Ltd., bearing ITA No. 1491/Ahd/2012 (for A.Y. 2009-10) and CO No. 138/Ahd/2012 (by Assessee) order dated 31/10/2012. The relevant portion is reproduced below:-

"19. The issue dealt with by the Hon'ble Supreme Court in the case of Totgars (supra) is extracted, for appreciation of facts as under:

What is sought to be taxed under section 56 of the Act is interest income arising on the surplus invested in short term deposits and securities, which surplus was not required for business purposes? The assesse(s) markets the produce of its members whose sale proceeds at times were retained by it. In this case, we are concerned with the tax treatment of such amount. Since the fund created by such retention was not required immediately for business purposes, it was invested in specified securities. The question before us, is whether interest on such deposits/securities, which strictly speaking accrues to the members' account, could be taxed as business income under section 28 of the Act? In our view, such interest income would come in the category of 'income from other sources' hence, such interest income would be taxable under section 56 of the Act, as rightly held by the assessing officer….."

19.1 However, in the present case, on verification of the balance sheet of the assessee as on 31.3.2009, it was observed that the fixed deposits made were to maintain liquidity and that there was no surplus funds with the assessee as attributed by the Revenue. However, in regard to the case before the Hon'ble Supreme Court –

"(on page 286) 7 …….. Before the assessing officer, it was argued by the assesse(s) that it had invested the funds on short term basis as the funds were not required immediately for business purposes and consequently, such act of investment constituted a business activity by a prudent businessman; therefore, such interest income was liable to be taxed under section 28 and not under section 56 of the Act and, consequently, the assessee(s) was entitled to deduction under section 80P(2)(a)(i) of the Act. The argument was rejected by the assessing officer as also by the Tribunal and the High Court, hence these civil appeals have been filed by the assessee(s).

19.2 From the above, it emerges that (a) that assessee (issue before the Supreme Court) had admitted before the AO that it had invested surplus funds, which were not immediately required for the purpose of its business, in short term deposits; (b) that the surplus funds arose out of the amount retained from marketing the agricultural produce of the members; (c) that assessee carried on two activities, namely, (i) acceptance of deposit and lending by way of deposits to the members; and (ii)marketing the agricultural produce; and (d) that the surplus had arisen emphatically from marketing of agricultural produces.

19.3 In the present case under consideration, the entire funds were utilized for the purposes of business and there were no surplus funds.

19.4 While comparing the state of affairs of the present assessee with that assessee (before the Supreme Court), the following clinching dissimilarities emerge, namely:

(1) in the case of assessee, the entire funds were utilized for the purposes of business and that there were no surplus funds:-

- in the case of Totgars, it had surplus funds, as admitted before the AO, out of retained amounts on marketing of agricultural produce of its members;

(2) in the case of present assessee, it had not carry out any activity except in providing credit facilities to its members and that the funds were of operational funds. The only fund available with the assessee was deposits from its members and, thus, there was no surplus funds as such;

- in the case of Totgars, the Hon'ble Supreme Court had not spelt out anything with regard to operational funds;

19.5 Considering the above facts, we find that there is force in the argument of the assessee that the assessee not a co-operative bank, but its nature of business was coupled with banking with its members, as it accepts deposits from and lends the same to its members. To meet any eventuality, the assessee was required to maintain some liquid funds. That was why, it was submitted by the assessee that it had invested in short-term deposits. Furthermore, the assessee had maintained overdraft facility with Dena Bank and the balance as at 31.3.2009 was Rs.13,69,955/- [source : Balance Sheet of the assessee available on record].

19.6 In overall consideration of all the aspects, we are of the considered view that the ratio laid down by the Hon'ble Supreme Court in the case of Totgars Co-op Sale Society Ltd (supra) cannot in any way come to the rescue of either the Ld. CIT (A) or the Revenue. In view of the above facts, we are of the firm view that the learned CIT (A) was not justified in coming to a conclusion that the sum of Rs.9,40,639/- was to be taxed u/s 56 of the Act. It is ordered accordingly."

5. Respectfully following the above decision of the Co-ordinate Bench, we hereby hold that the benefit of deduction u/s 80P(2)(a)(i) was rightly granted by ld. CIT(A), however, he has wrongly held that the interest income is taxable u/s 56 of the Act so do not fall under the category of exempted income u/s 80P of the Act. The adverse portion of the view, which is against the assessee, of ld. CIT(A) is hereby reversed following the decision of the Tribunal cited supra, resultantly ground is allowed.

8. We find that the ratio of above case also applies to the present case. As observed in the above case law, in this case also the

submissions of the assessee's counsel is that the assessee society is maintaining operational funds and to meet any eventuality towards repayment of deposit the cooperative society is maintaining some liquidated funds as short term deposits with banks. Hence adhering to the doctrine stair desises, we hold that the assessee should be granted benefit of deduction under section 80P(2)(a)(i). Accordingly, the interest on deposits would qualify for deduction under the said section. Accordingly, we set aside the order of authorities below and decide the issue in favour of assessee.

"4. We further find that batch of similar appeals decided by the ITAT in favour of the assessee has also been considered by the Jurisdictional High Court. The Hon'ble Jurisdictional High Court has duly affirmed of this Tribunal. Accordingly, in the background aforesaid discussion, we do not find infirmity in the order of Ld. CIT(A)."

11. In the background of aforesaid discussion and decisions, we find that CIT (A) has erred in upholding the assessment order. The Appellant Cooperative society is entitled for deduction u/s 80P as claimed in the return."

8. Thus, respectfully following the decision of the coordinate bench of the Tribunal, the deduction claimed by the Assessee to the tune of 9,02,984/- u/sec. 80P(2)(a)(i), is allowed by deleting the addition made by the Ld. AO on the said issue/aspect.

9. While coming to the addition /disallowance of Rs. 14,831/- on account of 'donation', this Court observes that both the authorities below have specifically and categorically held that the Assessee failed to produce any documentary evidence and explanation in support of this expenditure. Thus, in the considered opinion of this Court, the Assessee's claim on this aspect, is not tenable and the same has rightly been disallowed by the authorities below. Thus, the ground raised *qua* this issue is rejected.

10. In the result, Assessee's appeal is partly allowed.

Order pronounced in open court on 23.09.2025 as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

vr/-

Copy to: The Appellant
The Respondent
The CIT, Concerned, Nagpur
The DR Concerned Bench

//True Copy//

By Order

Senior Private Secretary
ITAT, Nagpur.