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IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2468/PUN/2025
निर्धारण वर्ष / Assessment Year : 2015-16

Jaisingpur Vyapari Nagri Sahakari Patsanstha Maryadit, City Survey No.1098, Opp. To Ichalkaranji Janta Sahakari Bank Ltd., Railway Station Road, Shirol, Jaysingpur- 416101. PAN : AAAJJ0409L	Vs.	ITO, Ward-1, Ichalkaranji.
Appellant		Respondent

Assessee by	:	Shri Bhuvanesh Kankani
Revenue by	:	Smt. Sonal L. Sonkavde
Date of hearing	:	05.05.2026
Date of pronouncement	:	08.07.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 19.09.2025 passed by Ld. CIT(A)/NFAC for the assessment year 2015-16.

2. The appellant has raised the following grounds of appeal :-

> *"1. On the facts and circumstance prevailing in the case and as per provisions and scheme of the Act it be kindly held that Assessment Proceeding so completed are not in accordance*

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with the provisions of sec. 147 of the Act since the issue of re-opening the case and the issue on which addition is made are totally different. Thus, the Assessment Proceedings so completed be kindly held to be invalid and accordingly be quashed.

2. *On the facts and circumstances prevailing in the case and as per provisions and scheme of the Income-tax Act, 1961 ('the Act') it be held the order passed by Ld. AO is in violation to the principle of natural justice since the issue of addition was not mentioned/communicated in any of the notices issued, including the show cause notice issued. Thus, it be kindly held that the Assessment Proceedings so completed by violating the principle of natural justice is invalid and accordingly be kindly quashed.*

3. *On the facts and circumstance prevailing in the case and as per provisions and scheme of the Act it be kindly held that the disallowance of the claim of deduction u/s 80P of the Act is incorrect and not in accordance with the provisions of the Act. Accordingly, the claim of deduction u/s 80P of the Act so made be kindly allowed and Appellant be granted just and proper relief in this regard.*

4. *On the facts and circumstances prevailing in the case and as per provisions and scheme of the Income-tax Act, 1961 ('the Act') it be held the Assessment Proceedings initiated on the Surrendered PAN is invalid and void ab initio. Thus, the Assessment proceedings so initiated be kindly quashed.*

5. *On the facts and circumstances prevailing in the case and as per provisions and scheme of the Income-tax Act, 1961 ('the Act') it be held the Assessment Proceedings initiated in violation to provisions of sec. 151A r.w.s 144B of the Act are invalid and void ab initio. Thus, the Assessment proceedings so initiated be kindly quashed.*

6. *The appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing."*

3. Facts of the case, in brief, are that the assessee is a primary credit co-operative society duly registered under the Maharashtra Co-operative Society Act and engaged in the activity of providing credit facilities to its members and also accepting deposits from

them. The assessee has not furnished return of income u/s 139 of the IT Act. On the basis of information that the assessee society has entered into various financial transactions i.e. deposit of cash of more than Rs.10,00,000/- in other cooperative banks and purchase of time deposit of more than Rs.2 lakhs with other cooperative banks, however the return of income has not been furnished disclosing above transactions, the case of the assessee was reopened u/s 147 of the IT Act and notice dated 30-03-2022 u/s 148 of the IT Act was issued after following due procedure as provided in section 148A of the IT Act and after recording reasons for reopening and obtaining prior approval of the appropriate authority i.e. PCCIT, Pune. The FAO issued notice u/s 142(1) of the IT Act to the assessee to which assessee did not respond, therefore the Assessing Officer issued notice u/s 133(6) of the IT Act to banks to furnish relevant information and thereafter proposed an addition of Rs.22,82,84,247/- to the income of the assessee. Subsequently, the case was transferred out of faceless assessment u/s 144B(8) of the IT Act for completion of the assessment by Jurisdictional Assessing Officer as the PAN was not registered on the e-filing portal. Accordingly, the JAO issued notice dated 09.03.2023 requesting the assessee to furnish the

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requisite information. The assessee furnished written submission on 15.03.2023 along-with supporting documents in response to above notice. After examining the reply, submissions and Profit & Loss Account of the assessee credit cooperative society, the Assessing Officer found that the assessee has received bank interest income totalling to Rs.71,70,196/- however, not offered the same under the head "Income from other sources" by not filing the return of income for the year under consideration. Accordingly, in the light of Supreme Court judgement passed in the case of Totgars Cooperative Sale Society Ltd., the Assessing Officer held that the assessee society would not be entitled to deduction u/s 80P of the IT Act. Accordingly, by an order dated 28.03.2023, the Assessing Officer completed the assessment proceedings u/s 147 r.w.s. 144 of the IT Act by determining income of the assessee credit co-operative society at Rs.71,70,196/-. The above assessed income includes addition of bank interest income of Rs.71,70,196/- under the head "Income from other sources".

4. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A)/NFAC. After considering the reply and submissions of the assessee, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee.

5. It is the above order against which the assessee is in appeal before this Tribunal.

6. We have heard Ld. counsels from both the sides and perused the material available on record including the paper books furnished by the assessee. In this regard, we find that the assessee is admittedly a credit co-operative society duly registered under the Maharashtra State Co-operative Societies Act, 1960 & the assessee was having two PAN Numbers, one of which i.e. AAAJJ0409L was issued in the capacity/status of 'Artificial Juridical Person' whereas the assessee being a co-operative society was covered under the status of 'Association of Persons', therefore, the assessee applied for another PAN number under the correct status of 'Association of Persons' and new PAN number AACAJ2599J was allotted to the assessee. We also find that on 12.10.2017 the assessee credit co-operative society has duly requested before the Income Tax Officer, Ichalkaranji to cancel the old PAN number AAAJJ0409L. However, subsequently, notice u/s 148 was issued on this old PAN on the basis of SFT i.e. Statement of Financial Transactions since the assessee failed to incorporate new PAN number in some of its bank accounts due to which the transactions were reported on old PAN which subsequently led to the issue of

notice u/s 148 of the IT Act. In response to notice issued u/s 142(1) of the IT Act, the assessee explained the fact of old PAN and also informed about the new PAN, however the Assessing Officer was of the view that the assessee earned interest income of Rs.71,70,196/- from other cooperative banks which has not been disclosed by the assessee under the head “Income from other sources” therefore, the same was added as the income of the assessee by relying on judgement of Hon’ble Supreme Court passed in the case of the Totgars Sale Society Ltd. vs. The ITO order dated 08-02-2010. In first appellate proceedings, Ld. CIT(A)/NFAC also sustained the addition of Rs.71,70,196/- made by the Assessing Officer with regard to interest income earned by the assessee credit co-operative society. In this regard, it is the contention of the assessee that the profit and loss account was furnished before the Assessing Officer as well as before Ld. CIT(A)/NFAC, however both of them has not objected to the net profit of Rs.34,54,416/- disclosed by the assessee in its profit and loss account, rather interest income of Rs.71,70,196/- earned from other cooperative societies was added/confirmed as “Income from other sources”. In this regard, it was the contention of Ld. counsel of the assessee that the interest income of Rs.71,70,196/- was already considered in its profit & loss account by the assessee & after deducting expenses net profit of Rs.34,54,416/- was arrived, therefore, the addition amounts to double taxation. Apart from above, it was also the contention of Ld. counsel of the assessee that under identical facts and on similar grounds notice u/s 148 of the IT Act was also issued for assessment year 2016-17 and the Assessing Officer has accepted the fact of duplicate PAN and all the contentions of the assessee & not made any addition in the case of assessment year 2016-17. In support of these contentions, the assessee also furnished copy of the assessment order passed u/s 143(3) for assessment year 2016-17 wherein no addition was made by the assessing officer.

7. Apart from this, it was also the contention that this interest income was earned from other cooperative banks which are co-operative societies, therefore, the interest income was deductible u/s 80P2(d) of the IT Act and the list of such interest income was furnished before Ld. CIT(A)/NFAC and also before the bench. It was also contended that Jurisdictional Pune Tribunal is consistently of the view that facts of Totgars Sale Society Ltd. case law are quite different and not applicable in the case of a credit co-operative society & the interest income earned from other

cooperative society is deductible u/s 80P2(d) of the IT Act. Ld. AR relied on the following judgements/decisions wherein the above case law was distinguished & deduction u/s 80P2(d) of the IT Act was allowed :-

(i) Thorapaddi Urban Co-op Credit Society Ltd. vs. ITO [WP No.11172, 11174, 11177 and 11180 of 2023] (Madras HC).

(ii) Mavilayi Service Co-operative Bank Ltd. vs. CIT [2021] 123 taxmann.com 161 (SC)

(iii) Pragati Gramin Bigarsheti Sahakari Patsanstha Maryadit vs. PCIT [ITA No.303/PUN/2021].

(iv) Ajinkaya Madhyamik Shikahak Sevak Sah. Patsanstha Marayadit vs. PCIT [ITA No.186/PUN/2023].

(v) Shri Saikrupa Nagari Sahakari Patsanstha Maryadit vs. ITO [ITA No.65/PUN/2025].

(vi) Kai Balkrishna R. Gawade Mandai Vyapari Premises Sahakari Sanstha Maryadit vs. ITO (2023) [153 taxmann.com 97] (Bom).

8. It was also contended that section 80AC which restricts deduction u/s 80P in the absence of return u/s 139(1) of the IT Act

was inserted w.e.f. Asstt Year 2018-19 only & not applicable to the case of the assessee. It was also contended that a coordinate bench of this Tribunal has already allowed deduction u/s 80P even in the absence of return of income, since it was claimed before the Assessing Officer. We find force in the above argument of Ld. Counsel of the assessee & find support from coordinate bench decision passed in the case of Krushi Vibhag Karmchari Vrund Sahakari Pat Sanstha Maryadit ITA No.182/NAG/2019 order dated 07-10-2022 wherein coordinate bench of this Tribunal allowed the deduction u/s 80P of the IT Act by observing as under :-

> *"5. I have heard both the sides and scanned through the relevant material on record. It is an undisputed fact that the assessee did not file return of income for the year under consideration either originally or pursuant to notice u/s 148. Computation of income was filed during the course of assessment proceedings in which the deduction u/s 80P was claimed. Whereas, the authorities below have canvassed a view that the assessee violated section 80A(5) and hence the deduction was not available; the assessee has made out a case that section 80A(5) does not apply where no return is furnished and rather it is section 80AC which would govern the case and because of omission of section 80P in the list of sections given in section 80AC, the deduction should be granted. In order to appreciate the contention of the ld. AR, it would be apposite to reproduce section 80AC, before its substitution by the Finance Act, 2018 w.e.f 1.4.2018, which reads as under: —*
>
> > *Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on the 1st day of April, 2006 or any subsequent assessment year, any deduction is admissible under section 80-IA or section 80 IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139."*

6. On going through the above provision, it is crystallized that the requirement of filing return before the time u/s 139(1) is sine qua non for claiming deduction under the six sections (80-IA or 80 IAB or 80-IB or 80-IC or 80-ID or 80-IE). In other words, if a return is filed belatedly u/s 139(4) or under any other section, claiming deduction under any of the six sections, the writ of the section 80AC will operate to prevent its granting. This section does not deal with granting or non-granting of deduction under any other sections of Part C of Chapter VI-A, including section 80P. Thus, to infer that since section 80AC does not cover section 80P, the latter section is immune from any other statutory requirement, is wholly incorrect. In fact, section 80AC is alien to deduction under any section except the specified six sections.

7. Now, I turn to section 80A(5), which has been pressed into service by the AO for denying the benefit of deduction u/s 80P of the Act, which runs as under:

> *`Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder.'*

8. This section provides that where an assessee fails to make a claim in his return of income for any deduction, amongst others, the sections enshrined in Part C to Chapter VI-A (including section 80P and six sections as given in section 80AC), then the deduction shall not be allowed. A perusal of the mandate of section 80A(5) divulges that the claiming of deduction under various sections of part C of Chapter VI-A in the return of income is essential. The reference in this provision is only to return of income, without any further qualification. The return may be u/s 139(1) or 139(4) or any other relevant section.

9. On a conjoint reading of sections 80A(5) and 80AC, it gets manifest that claiming of deduction under various sections of Part C of Chapter VI-A in the return of income is essential. However, an additional requirement for claiming deduction under sections 80-IA or 80-IAB or 80-IB or 80-IC or 80-ID or 80-IE is that such deduction must be claimed in a return filed u/s 139(1) of the Act. In one sense, section 80AC is an exception to section 80A(5), making the mandate of the latter section more stringent in the prescribed cases. Whereas other deductions of Part C of Chapter VI-A, including section 80P, can be claimed in the return filed under any section, including section 139(4); the six deductions as referred to in section 80AC must necessarily be claimed in the return filed u/s 139(1) only. Ex consequenti, the contention that since section 80P is not covered under section 80AC, the deduction under this section becomes *automatically allowable without adhering to the requirement of section 80A(5), is bereft of force and hence dismissed.*

10. Now I advert to the requirements of section 80A(5), which stipulates that no deduction under other sections including 80P shall be allowed if the assessee fails to make such a claim in the return of income. Thus, there are twin conditions, viz., first, claiming deduction u/s 80P and second, claiming such deduction in the return of income. There is no dispute on the first condition, which has been satisfied in this case as the assessee did claim the deduction albeit during the course of assessment proceedings. The whole controversy revolves around the second condition, which says that the claim should be made in the return of income. The assessee in the extant case did not file any return of income, but made a claim of the deduction in computation of income filed during the course of the assessment proceedings. The moot question is whether the requirement of making a claim in the return of income is a mandatory or a directory requirement. If it is held as mandatory, then the claim must be made in the return of income, failing which the benefit of deduction would be lost. Au contraire, if it is held as directory, then the claim made either in the return of income or in any manner before the conclusion of assessment proceedings, as is the case under consideration, would validate the entitlement.

11. The Hon'ble Supreme Court in CIT vs. G.M. Knitting Industries (P.) Ltd. (2015) 376 ITR 456 (SC) came across a situation in which the assessee claimed additional depreciation in Form 3AA but the Form was not furnished along with the return of income. Such Form was submitted during the course of assessment proceedings. The AO denied the claim on the ground that the Form 3AA was required to be statutorily filed along with the return of income. The view of the AO was reversed by the Tribunal as well as the Hon'ble High Court by holding that even if the Form was filed during the course of assessment proceedings, it amounted to sufficient compliance. The Hon'ble Supreme Court, taking note of the judgment in CIT Vs. Shivanand Electronics (1994) 209 ITR 63 (Bom), approved the view of the Hon'ble High Court having the effect that the requirement of filing Form 3AA was a necessary ingredient for claiming additional depreciation, but the timing of filing the Form was a directory requirement, which was fulfilled on filing it even during the course of assessment proceedings. The Hon'ble Bombay High Court in Shivanand Electronics (supra) dealt with the requirement of filing audit report for the purpose of claiming deduction u/s 80J, which required that the report should be filed "along with return of income" under s. 80J(6A). It held that such requirement of filing the audit report along with the return of income was not mandatory, but directory in the sense that if assessee complied with the same before *completion of assessment, deduction under s. 80J, on the basis of such report, was allowable.*

12. Recently, the Hon'ble Supreme Court was confronted with the claim of benefit u/s 10B in Pr.CIT vs. Wipro Limited (2022) 446 ITR 1 (SC). The assessee furnished original return taking the benefit of section 10B and did not carry forward the loss. Thereafter, a revised return was filed foregoing the claim of deduction u/s 10B. The AO rejected the withdrawal of exemption under Section 10B by holding that assessee did not furnish the necessary declaration in writing before due date of filing return of income, which was an essential requirement for not claiming the benefit of section 10B. The Hon'ble High Court decided the issue in favour of the assessee by holding that the requirement of filing the declaration was mandatory but filing it along with the return of income u/s 139(1) was a directory requirement. The matter was brought by the Revenue before the Hon'ble Supreme Court. The assessee, inter alia, relied on the judgment of the Apex Court in G.M. Knitting Industries (supra). Their Lordships held that the requirement of filing the report in support of deduction u/s 10B was not a directory but a mandatory requirement. It further held that both the conditions of - filing the declaration and filing it before the time limit u/s 139(1) - were mandatory and had to be cumulatively satisfied. Rejecting the reliance on G.M. Knitting Industries (supra), the Hon'ble Supreme Court held that that decision was relevant in the context of deduction provisions and not the exemption provisions as given under Chapter III of the Act. As the Hon'ble Summit Court in Wipro Limited (supra) was dealing with section 10B, falling under Chapter III of the Act, it held qua G.M. Knitting Industries (supra) that: `Therefore, the said decision shall not be applicable to the facts of the case on hand, while considering the exemption provisions. Even otherwise, Chapter III and Chapter VI-A of the Act operate in different realms and principles of Chapter III, which deals with "incomes which do not form a part of total income", cannot be equated with mechanism provided for deductions in Chapter VI-A, which deals with "deductions to be made in computing total income". Therefore, none of the decisions which are relied upon on behalf of the assessee on interpretation of Chapter VI-A shall be applicable while considering the claim under Section 10B (8) of the IT Act.'

13. On going through the judgments in G.M. Knitting Industries (supra) in juxtaposition to Wipro Limited (supra), the principle which emerges is that the fulfillment of requirement of making a claim for exemption under the relevant sections of Chapter III in the return of income is mandatory, but when it comes to the claim of a deduction, inter alia, under the relevant sections of Chapter VI-A, such requirement becomes directory. In the latter case, the making of a claim even after the filing of return but before completing the *assessment, meets the directory requirement of making a claim in the return of income. The instant case involves deduction u/s 80P and hence, would be governed by the principle laid down in G.M. Knitting Industries (supra), as per which the making of a claim of deduction is mandatory but the timing is directory. Even if the claim is made during the course of assessment proceedings, such a claim has to be allowed. In view of the foregoing discussion, I am satisfied that the authorities below were not justified in rejecting the assessee's claim of deduction u/s 80P only on the ground that such a claim was not made in the return but during the course of assessment proceedings. The impugned order is ergo set aside and the matter is remitted to the file of the AO for examining the claim of deduction u/s 80P on merits.*

14. In the result, the appeal is allowed for statistical purposes."

9. Respectfully following the above decision passed by coordinate bench of this Tribunal in the case of Krushi Vibhag Karmchari Vrund Sahakari Pat Sanstha Maryadit ITA No.182/NAG/2019 order dated 07-10-2022 (supra) & also in the light of other decisions relied on by the assessee cited supra, we are of the considered opinion that the assessee credit cooperative society is entitled to deduction u/s 80P2(d) of the IT Act on interest income of Rs.71,70,196/- which is earned from its investment with other cooperative banks/societies.

10. Considering the totality of the facts of the case and in view of our above discussion, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and direct the Assessing Officer to delete the addition of Rs.71,70,196/- & allow the deduction u/s 80P2(d) of the IT Act being interest income earned from other cooperative

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banks which are also cooperative societies. Accordingly, ground no.3 raised by the assessee is allowed. Since the assessee has not pressed the ground nos.1, 2, 4, 5 & 6, therefore the same are dismissed as not pressed.

11. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on this 08th day of July, 2026.

Sd/-	Sd/-
(R. K. PANDA)	**(VINAY BHAMORE)**
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 08th July, 2026.

Sujeet/DOC Sujeet Kumar Sharma

Digitally signed by Sujeet Kumar Sharma
Date: 2026.07.14 11:36:15 +05'30'

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**A**" बेंच, पुणे / DR, ITAT, "**A**" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.