

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, CHANDIGARH

PHYSICAL HEARING

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No.886/CHANDI/2025
(निर्धारण वर्ष / Assessment Year: 2018-19)

The Swahalwa Co-operative Agriculture Service Society Ltd. Village Swahalwa, P.O. Tauni Devi, Tehsil Bamsan (Tauni Devi) Distt. Hamirpur (HP)-177023	बनाम/ Vs.	ITO ITO Hamirpur (H.P.)
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AABAT-9911-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Ajay Kumar (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	05-01-2026
घोषणाकीतारीख / Date of Pronouncement	:	06-01-2026

आदेश / O R D E R

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of an order of learned Addl. / Joint Commissioner of Income Tax (Appeals)-2, Vishakhapatnam [CIT(A)] dated 20-06-2025 in the matter of a rectification order passed by Ld. Assessing Officer [AO] u/s 154 r.w.s. 143(1) of the Act on 21-10-2020. Having heard rival submissions, the appeal is disposed-off as under.

2. The assessee being a primary agricultural cooperative society, filed its return of income on 06-12-2018 claiming deduction u/s 80P(2)(a)(i) for Rs.2,41,781/-. The CPC, while processing the return u/s 143(1), denied this

claim since the due date for filing of return of income u/s 139(1) was 31-08-2018. Since the return was filed belatedly, the deduction was denied. The assessee preferred rectification application which was rejected by Ld. AO on the ground that in terms of provisions of Sec.80AC, the return was to be filed by due date to lay claim on this deduction. The Ld. CIT(A) confirmed the action of Ld. AO against which the assessee is in further appeal before us.

3. I find that the appropriate course of action for the assessee, on the facts of such cases, lies in CBDT Circular No. 13 of 2023 dated 26-07-2023 (F.No.173/2112023-IT A-I) which read as under: -

Sub:- Condonation of delay under clause (b) of sub-section (2) of section 119 of the Income-tax Act, 1961 for returns of income claiming deduction u/s 80P of the Act for various assessment years from A Y 2018-19 to AY 2022-23- Reg.

Section 80P of the Income-tax Act, 1961 (hereafter referred to as 'Act') provides for deduction in respect of income of co-operative societies under Chapter VI A-Part-C ("Deductions in respect of certain incomes") of the Act.

2. In so far as section 80P of the Act is concerned, Finance Act, 2018 substituted section 80AC of the Act w.e.f. 01 .04.2018 which provides as under –

Deduction will not be allowed unless return furnished

80AC. *Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after-*

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80- IC or section 80-/D or section 80-IE;

(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.- Deductions in respect of certain incomes",

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 (I) of section 139.

3. Applications have been received in the Central Board of Direct Taxes (hereafter referred to as 'the Board') from co-operative societies claiming deduction u/s 80P of the Act for various assessment years from AY 2018-19 to AY 2022-23, regarding condonation of delay in furnishing return of income and to treat such returns as 'returns furnished within the due date under sub-section (I) of section 139 of the Act stating that delay

in furnishing return of income was caused due to delay in getting the accounts audited under respective State Laws.

4. *In order to mitigate genuine hardship in cases referred to in para 3, the Board, in exercise of the powers conferred under section 119 of the Act, hereby directs that the Chief Commissioners of Income tax (CCsIT) / Directors General of Income tax (DGsIT) are authorised to deal with such applications of condonation of delay pending before the Board, upon transfer of such applications by the Board, and decide such applications on merits, in accordance with the law.*

5. *The Board hereby further directs that the CCsIT/DGsIT, henceforth, shall admit all pending as well as new applications for condonation of delay in furnishing returns of income claiming deduction u/s 80P of the Act, filed either in the Board or in field formation for the assessment years 2018-19 to 2022-23 and decide such applications on merits in accordance with the law where such person is required to get his accounts audited under respective State Laws.*

6. *In the context of para-5 above, the CCsIT/DGsIT while deciding such applications for condonation of delay in furnishing return of income, shall satisfy themselves that the applicant's case is a fit case for condonation under the existing provisions of the Act. The CCsIT/DGsIT shall examine the following while deciding such applications –*

(i) the delay in furnishing the return of income within the due date under sub-section (I) of section 139 of the Act was caused due to circumstances beyond the control of the assessee with appropriate documentary evidence/s;

(ii) where delay in furnishing return of income was caused due to delay in getting the accounts audited by statutory auditors appointed under the respective State Law under which such person is required to get his accounts audited, the date of completion of audit vis-a-vis the due date of furnishing the return of income under sub-section (I) of section 139 of the Act; and

(iii) any other issue indicating towards tax avoidance or tax evasion specific to the case, which comes into the light in the course of verification and having bearing either in the relevant assessment year or establishing connection of relevant assessment year with other assessment year/s.

6.1 *The cases falling under para 6(iii) above, would require further necessary action as per law. " . '*

7. *The CCsIT/DGsIT shall preferably dispose the application within three months from the end of the month in which such application is received from the applicant or transferred by the Board. No order rejecting the application under section 119(2)(b) of the Act shall be passed without providing the applicant an opportunity of being heard.*

8. *Hindi version to follow.*

In view of the above circular, I restore the appeal back to Ld. CIT(A) so as to enable the assessee to seek condonation from appropriate authority in terms of above circular. The appeal would be adjudicated considering the outcome of the assessee's such application.

4. The appeal stands allowed for statistical purposes.

Order pronounced on 06th January, 2026.

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 06-01-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH