

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.454/Ahd/2023
Assessment Year: 2020-21**

Uttam Dairy Staff Co-operative Credit & Supply Society Limited, Municipal Mini Stall No.1, Rajpur School No.7 & 8 Compound, Opp. Uttam Dairy, Sukhramnagar, Gomtipur, Ahmedabad – 380 021. [PAN – AAAAU 0131 H]	Vs.	The AO, CPC, Bangalore/ ITO, Ward-5(3)(1), Ahmedabad
(Appellant)		(Respondent)
Assessee by	Shri P.F. Jain, AR	
Revenue by	Ms. Saumya Pandey Jain, Sr. DR	
Date of Hearing	20.07.2023	
Date of Pronouncement	09.08.2023	

ORDER

This appeal is filed by the Assessee against order dated 12.05.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2020-21.

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

- “1. The learned CIT(A) has erred in law and on facts in upholding non grant of exemption of Rs.4,18,340/- claimed u/s.80P(2)(b), 80P(2)(d), 80P(2)(c) aggregating Rs.4,18,340/- on the ground of return of income having been filed late without properly appreciating the facts.*
- 2. Considering the fact of Covid, Government Audit having been not done on time and the Suo-Moto extension for limitation allowed by the Apex Court. The exemption u/s.80P ought to have been allowed to the appellant.*
- 3. On account of reasonable cause for late submission of return on account of late audit by the Govt. Auditor the learned CIT(A) ought to have allowed exemption u/s.80P of the Act.*
- 4. He has erred in law and facts in upholding the disallowance u/s.80P in as much as that clause 143(1)(v) for disallowance has been*

inserted with effect from 01.04.2021 hence not applicable for AY 2020-21.

5. *On the facts of the assessee exemption u/s.80P ought not to have been denied on the ground of late furnishing of return.*
6. *He has erred in law in applying the decision of Madras High Court in the case of Veerappampalayam Primary Agricultural Co-operative Society Limited on the facts of the assessee."*

3. The assessee is a Co-operative Society and filed its return of income on 31.03.2021 wherein the assessee claimed deduction under Section 80P of the Income Tax Act, 1961 of Rs.4,18,340/-. The CPC denied the claim under Section 80P thereby raising demand of Rs.1,61,860/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) as well as the Assessing Officer denied the deduction claimed by the assessee under Section 80P(2)(b) of the Act on the ground of belated filing of the returns. The return of income was filed on 31.03.2021 as against extended due date of 15.02.2021 resulting into delay of about one and half month. As per return of income, there was gross total income of Rs.4,18,038/- which included dividend of interest of Rs.1,82,675/- and thus the assessee was entitled to deduction under Section 80P in respect of dividend of Rs.1,50,000/-, interest of Rs.1,82,675/- and upto Rs.1,00,000/- under Section 80P(2)(c) of the Act and, therefore, entire income of Rs.4,18,338/- was claimed as exempt and column of income was nil. While passing the intimation on 27.12.20221, exemption has not been allowed and the amount of Rs.4,18,340/- has been treated as taxable and demand of Rs.1,61,860/- has been determined. There was reasonable cause for not filing return of income on or before 15.02.2021 as the Auditor appointed furnished return of income on 31.03.2021 and there was pandemic guidelines from the Hon'ble Apex Court which should have been taken into account. The Ld. AR further submitted that the Amendment of mandatory filing of return on the due date will be applicable for A.Y. 2021-22 onwards and not with the present A.Y. 2020-21. The Government Auditor has not given the Audit Report on time and, therefore, the CIT(A) as well as the Assessing

Officer was not justified in denying the right to claim of deduction under Section 80P of the Act to the assessee.

6. The Ld. DR submitted that there were two extensions granted during that period and despite those two extensions, the assessee has filed the same belatedly by more than a month. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. There is no dispute that the assessee is entitled for deduction under Section 80P of the Act and the circumstances under which the assessee filed the belated return were beyond the control of the assessee. The Government Auditor has given its report belatedly and, therefore, the filing of the return of income was delayed due to the genuine reasons. The submissions of the Id. AR that the mandate of filing the return of income on due date will be applicable from A.Y. 2021-22 appears to be correct. Hence, the Assessing Officer as well as the CIT(A) was not right in disallowing the claim of deduction under Section 80P of the Act to the assessee only on the ground of delay in filing the return.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on this 9th August, 2023.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 9th day of August, 2023

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*