



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No. 312 /RJT/2022

**Assessment Year: (2019-20)**

**(Hybrid Hearing)**

Shree Dhamel Seva Sahkari Mandali Ltd. Amreli, Gujarat – 365220	<b>Vs.</b>	The Asstt. Director of Income Tax (CPC) Post Bag No. 2, Electronic City Post Office, Bangalore - 560500
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ABKAS8446E</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

आयकरअपीलसं./ITA No. 313 /RJT/2022

**Assessment Year: (2019-20)**

**(Hybrid Hearing)**

Damnagar Seva Sahkari Mandli, Nrshar Market, Damnagar, Gujarat – 365220	<b>Vs.</b>	The Asstt. Director of Income Tax (CPC) Post Bag No. 2, Electronic City Post Office, Bangalore - 560500
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAAAD0446L</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

आयकरअपीलसं./ITA No. 11/RJT/2023

**Assessment Year: (2019-20)**

**(Hybrid Hearing)**

Shree Bhingrad Seva Sahakari Mandali Ltd. Amreli - 365220	<b>Vs.</b>	THE Asstt. Director of Income Tax (CPC) Post Bag No. 2, Electronic City Post Office, Bangalore - 560500
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAFAS5700B</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	Shri D. M. Rindani, A.R.
<b>Respondent by</b>	Shri Abhimanyu Singh Yadav, Ld. Sr. DR
<b>Date of Hearing</b>	30/10/2024
<b>Date of Pronouncement</b>	10/01/2025



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

## आदेश / ORDER

**PER DR. A. L. SAINI, AM:**

Captioned appeals filed by three different assesseees pertaining to Assessment year 2019-20, are directed against the separate orders passed by the Commission Income Tax (Appeals), which in turn arise, out of separate assessment orders passed by the Assessing Officer, under section 143(1) of the Income Tax Act, 1961.

2. Through these appeals, assessee assails the correctness of separate orders passed by the Commissioners of Income-tax (Appeals), in relation to the captioned assessment years 2019-20. Since these appeals are based on similar facts and common grounds of appeal, therefore I am proceeding to dispose of them by this consolidated order for the sake of convenience. The facts, as well as, the grounds of appeal raised by the assessee in ITA No. 312/Rjt/2022, have been taken into consideration for deciding these three appeals *en-masse*.

3. To adjudicate these three appeals, I have taken the lead case, in ITA No. 312/Rjt/2022 and the ground of appeal raised by the assessee, as per lead case, are as follows:

- 1) *The Ld. Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in confirming action of CPC Bengaluru by disallowing claim of deduction of Rs. 12,31,650/- by failing to appreciate that provisions of sec. 143(1)(a)(v) do not provide for denial of deduction u/s 80P of the Act when the return of income is not filed within time allowed u/s 139(1) of the Act but u/s 139(4).*
- 2) *The Ld. Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in upholding action of the CPC Bengaluru in making adjustment to the returned income of the appellant by way of an intimation u/s 143(1) and denying the benefit*



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

- 3) *of sec. 80P of the Act of Rs. 12,31,650/- to the appellant by failing to appreciate that this was not a prima facie adjustment permissible u/s 143(1) of the Act.*
- 4) *The Ld. Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in holding that in view of sec. 80AC, benefit of deduction u/s. 80P has been denied by CPC, by failing to appreciate that this was not a prima facie adjustment permissible u/s 143(1)(a) of the Act, during the year under appeal.*
- 5) *The Ld. Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in not adjusting ground of disallowance of claim of deduction of Rs. 12,31,650/- u/s. 80P of the Act, on merits.*
- 6) *The appellant craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal.*

4. Succinctly, the factual panorama of the case is that assessee before us is a Co-operative society. Before us, the assessee has raised four grounds of appeal, which are interrelated and pertain to only one issue, that is, the CPC's action in denying of exemption u/s 80P(2), by way of intimation u/s 143(1) of the Act issued on 22.12.2020, on the ground that the assessee filed its return of income for the assessment year (AY) 2019-20, beyond the prescribed time limit and as such its claim is not admissible as per provisions of section 80AC(ii) of the Act. The Assessee is a Co-operative housing Society, duly registered under the Gujarat Cooperative Societies Act. The assessee filed return of income for the assessment year 2019-20, on 30.11.2020, as against the extended due date 31.08.2019, declaring the total income at Rs. 12,31,653/-. In the said return of income, the assessee- society claimed deduction u/s 80P of the Act to the tune of Rs.12,31,653/-. The CPC, Bangaluru, while processing the said return, passed an intimation u/s 143(1) of the Act, on 22.12.2020, thereby disallowing entire claim of deduction of Rs.12,31,653/-, claimed u/s 80P of the Act, on the ground that the assessee's claim is not admissible in view of the provisions of section 80AC(ii) of the Act, as the return of income was filed belatedly.

5. Aggrieved by the order of the assessing officer,( intimation u/s 143(1) of the Act), the assessee, carried the matter in appeal before the ld CIT(A), who



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

has confirmed the action of the assessing officer. The Id. CIT(A) held that since the return of income, was filed by the assessee, for the assessment year 2019-20, was actually beyond the prescribed time limit, under section 139(1) of the Act, and as such the assessee's claim is not admissible, as per provisions of section 80AC(ii) of the Act.

6. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

7. Shri D. M. Rindani, Learned Counsel for the assessee, submitted that assessing officer wrongly disallowed the assessee's claim of deduction by invoking the provisions of section 80AC of the Act. The due date for furnishing return of income as per section 139(1) was subject to extended period provided under sub-section (4) of section 139 of the Act. The action of the CPC and such an adjustment made by the CPC is not permissible under the Act, as section 143(1) permits adjustment only when there is arithmetical error or incorrect claim is apparent from any information in the return whereas in the instant case, none of the conditions to make adjustment u/s 143(1) of the Act, were found to be fulfilled, hence, adjustment made by the CPC, in respect of deduction u/s 80P may be held as invalid. To support its case, the Id. Counsel has relied upon the order dated 03-02-2021 of the Hon'ble ITAT Mumbai Bench passed in the case of New Ideal CHS Ltd. vs. ITO (ITA No. 2681/Mum/2019 for the AY 2015-16). Besides, Ld. Counsel also stated that the Return of income filed within the time allowed u/s



ITA No. 312 & 313 & 11/Rjt/2022

AY 2019-20

139(4) of the Act, cannot be said to be hit by section 80AC of the Act, for that Id. Counsel relied on following case law.

(i).Ms. Jagriti Aggarwal 339 ITR 610 (Punjab & Haryana)

(ii). Rajesh Kumar Jalan 286 ITR 274 (Gauhati HC)

(iii).Fathima Bai vs ITO 32 DTR 243 (Karnataka HC)]

The Id Counsel also stated that if the issue is a debatable one, then in that circumstances the provisions of section 143(l)(a) of the Act, is not meant to be invoked.

8. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

9. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I find that the only issue to be decided in the instant appeal is pertaining to action of the CPC, Bangalore, in denying the exemption claimed by the assessee- society u/s 80P of the Act, amounting to Rs. 12,31,653/-. As stated deduction u/s 80P of the Act, was denied by the CPC, on the ground that the assessee filed its return of income for the assessment year (AY) 2019-20 beyond the prescribed time- limit and as such its claim is not admissible as per provisions of section 80AC(ii) of the Act. For filing of return of income u/s. 139(1) of the Act, due date is prescribed which is further extended by the



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

higher authority as and when required. Similarly, date of return for filing of return u/s 139(4) of the Act, is also prescribed. Thus, dates of filing of returns u/s 139(1) and 139(4) are separate. In general terms, section 139(1) of the Act, states about filing of original return in due date or extended date

whereas return of income filed u/s 139(4) of the Act, can be filed, if the person who fails to file the return of income within the time-limit prescribed, then as per section 139(4) of the Act, the assessee can file a belated return. A belated return can be filed at any time before the end of the relevant

assessment year or before completion of assessment, whichever is earlier. The Id CIT(A) held that return filed u/s 139(4) of the Act, can always be treated as belated return and cannot be said to be at par to return filed u/s 139(1) of the Act. Thus, the assessee's claim was rejected by Id CIT(A).

10. I find merit in the submissions of Id Counsel that if the issue is a debatable one, then section 143(1)(a) of the Act is not be invoked. The learned Counsel stated, there are many decisions in favour of assessee, wherein it was held that if the issue is debatable, then 143(1) of the Act, conceptually, itself cannot be invoked. For this, the Ld Counsel relied on the following decisions:

- Manubhai M. Patel 296 ITR 143 (Guj)
- Smt. A. E. Sarojini 295 ITR 270 (Madras HC), Union Co. Motors Ltd. (2008) 296 ITR 542 (Madras HC)
- Sundaram Finance Ltd. (2008) 296 ITR 540 (Madras HC)
- Bank of Rajasthan Ltd. (2008) 215 CTR 315 (Rajasthan HC)
- Asma Exports (2008) 305 ITR 335 (Madras HC)



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

- Nagarjuna Fertilisers & Chemicals Ltd. (2015) 371 ITR 318 (Andhra Pradesh & Telengana HC)].

The Id Counsel stated that section 143(1) of the Act, cannot be pressed into service by the Revenue and the assessee in such cases should have been given a chance under issue of notice u/s 143(2) of the Act.

11. I note that Section 139(4) of the Act, allows taxpayers to file a belated return, if they miss the original deadline under Section 139(1) of the Act. However, as per the Income Tax Act, certain deductions, including those under Chapter VI-A (which includes Section 80P), must be claimed only if the return is filed within the timelines prescribed under Section 139(1) of the Act. I note

that Government is promoting Cooperative societies, and if these Co-operative societies, are eligible for deductions under Section 80P of the Act, even if the return is filed late, as long as the claim is valid and substantiated, their genuine claim, should not be denied. Therefore, I remit these three *lis* to the file of the assessing officer to examine the claim of the assessee, under section 80P of the Act, with the direction to the assessing officer that if these assessee, satisfy the conditions of section 80P of the Act, then the assessing officer should allow the deduction in accordance with law. For statistical purposes, these three appeals are allowed.

12. Before parting, I state that this decision is rendered on the peculiar facts of these cases and hence it cannot be construed as laying down propositions of law of general applications. Therefore, the instant adjudication shall not be treated as a precedent in any preceding or succeeding assessment year.



ITA No. 312 & 313 & 11/Rjt/2022  
AY 2019-20

13. In the combined result, appeals filed by the assessee, ( in ITA No.11, 312 and 313), are allowed for statistical purposes, in above terms.

**Order is pronounced on 10/01/2025 in the open court.**

Sd/-  
**(Dr. A.L. SAINI)**  
**ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 10/ 01 /2025

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot