BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 13.03.2026

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.7164 of 2026
and
W.M.P(MD)Nos.5861 and 5862 of 2026

M/s.Santhankulam Taluk Teachers Cooperative
Thrift and Credit Society TB69
Rep by tis Secretary P.Muthukumar,
No.13, Kollar Mudukku Street,
Sathankulam,
Tuticorin District-628 704 ... Petitioner

Vs.

1.The Chief Commissioner of Income Tax,
No.2, V.P.Rathinasamy Nadar Road,
CR Building,
Bibikulam,
Madurai
Madurai District-625 002

2.The Commissioner of Income Tax(Appeals)
Income Tax Department,
Bangaluru.

3.The Assessing Officer,
Income Tax Department,
Tuticorin District.

4. The Registrar of Co-operative Societies,
Chennai ...Respondents

(Impleaded suo moto by order dated 13/03/2026)

Writ Petitions are filed under article 226 of the Constitution of Inc praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent herein in DIN and Order No.ITBA/APL/S/250/2024-25/10738502(1) and quash the impugned order dated 28.02.2025 as the disallowance of deductions claimed under Section 80P of the Income Tax Act, 1961 by the 3rd respondent is illegal and violative and further for a direction, directing the 1st respondent herein to pass orders on the delay condonation petition dated 14.10.2025 filed by the petitioner herein on merits and in accordance with law.

For Petitioner :Ms.A.Karthika
For Respondents :Mr.J.Parek Kumar
Senior Standing Counsel

ORDER

This writ petition is filed challenging the impugned order dated 28.02.2025. Heard the learned counsel for the parties. It can be seen that the petitioner is a Co-operative Society registered under the Tamilnadu Cooperative Societies Act, 1983. While claiming deductions under Section 80P of the Income Tax Act, 1961, it failed and neglected to file returns within the stipulated time. As a result, the deduction for the assessment year 2021-2022 was not allowed, and a demand was made under Section 143(1) of the Act on 13.12.2024. Aggrieved by this, the petitioner filed the present appeal under Section 250 of the Income Tax Act, 1961. The Appellate authority had noted that the petitioner had submitted an application under Section 119(2)(b) before the Chief Commissioner of Income Tax, Madurai, to condone the delay in filing the returns, but the delay was yet to be condoned. The Appellate authority dismissed the appeal and confirmed demand. As a result, the present writ petition is filed before this Court.

2.The learned counsel for the petitioner submits that the petitioner is a Cooperative Society operating within the framework of the Tamil Nadu Cooperative Societies Act, 1983. Under this framework, the Cooperative Society cannot immediately file returns unilaterally. It must first undergo a statutory audit, and based on the outcome, it can claim the exemption. Due to this process, there has been a delay, and a condone delay application has been filed. The Appellate Authority, having considered that the delay application is still pending, should at least have kept the appeal in abeyance and should not have dismissed it.

3.Per Contra, the learned counsel appearing on behalf of the respondents submits that as long as the delay is not condoned, the Appellate Authority must decide the issue according to law, as mandated by Section 250 of the Income Tax Act, 1961. Since the delay has not been condoned, the appellate authority confirmed the demand. Even against the present order, there is an alternative remedy of an appeal before the Tribunal under section 253 of the Act. Without exhausting the alternative remedy, this writ petition need not be entertained.

4.I have considered the rival submissions made by both sides and examined the material records of the case.

5.Considering the difficulties pleaded by the Cooperative Societies in similar matters related to filing an obligation under Section 119(2)(b) of the Income Tax Act, a Division Bench of this Court in ***DD 203 Aranmanipatty Primary Agricultural Co-operative Credit Society -Vs- The Chief Commissioner of Income Tax (W.A.(MD) No.2334 of 2025)*** held that even through the exercise of the powers, the High Court by itself can condone the delay. It has, in fact, approved this approach for addressing the genuine hardship claimed by the Cooperative Societies.

6.Under these circumstances, in this writ petition a direction can be issued to the CCIT, Madurai, to dispose of the application filed by the petitioner under Section 119(2)(b) of the Act, to condone the delay. If that application is disposed of within eight weeks from the date of receipt of the web copy of the order, then, depending on the outcome of that order, the petitioner can be permitted to file their returns under Section 139(1) of the Income Tax Act 1961, regardless of the appellate order. If the prayer to condone delay is rejected, then this impugned order shall become final, and the petitioner will be entitled to take such steps against the Orders as may be permissible under law.

7.At the same time, this Court suo Moto implicated the fourth respondent for the purpose that the Co-operative Societies are default in filing of returns and making statutory compliances both under the Income Tax Act and also with reference Sales Tax. It can be seen that the employees of the Society are either negligent or ignorant of their duties. Mere issuing of circulars to these Co-operative Societies will not suffice. The fourth respondent shall consider whether these co-operative societies need professional help of chartered accountants/accountants with good knowledge and experience who would alert them and guide them in these processes. Appropriate software solutions can be developed for supervising whether the societies are filing returns in time and are making other compliances. The Supervisory officials should be in a position to monitor in real time whether compliance is made or not. Due alerts should be there for the Joint Registrars/Deputy Registrars about the failure of these societies. A robust mechanism shall be put in place.

8.In view of this, this writ petition is disposed of on the following terms.

(i) The applications filed by the petitioner for condonation of delay regarding the assessment order dated 14.10.2025 shall be considered by Chief Commissioner of Income Tax, Madurai, as expeditiously as possible, but in any case within six weeks from the date of receipt of the web copy of the order.

(ii) until the said order is passed, no further coercive steps should be taken to collect the tax from the petitioner

(iii) As and when the order is passed, if the delay is condoned, then, notwithstanding the present impugned order, the petitioner shall have an opportunity to upload the returns under Section 139(1) of the Income Tax Act, 1961 and thereafter, the parties will be governed by the further assessment proceedings that are undertaken.

(iv) If the delay is not condoned, then it will be open for the petitioner to take such steps as against the Order passed, including the present impugned order, in the manner known to law. Needless to mention that if the petitioner fails in his attempt to get the delay condoned or does not take any further steps, it will be open for the authorities to proceed further in accordance with the law.

(v) The fourth respondent is directed to consider the issue of defaults by the Co-operative Societies in the matter of filing of returns etc., and take steps to put in place a robust mechanism for due compliance and supervision.

(vi) No costs. Consequently, connected miscellaneous petitions closed.

16.03.2026

NCC:Yes/No
Ns

D.BHARATHA CHAKRAVARTHY

Ns

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