IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW, 'A' BENCH, LUCKNOW

BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.508/LKW/2026
A.Y. 2014-15

Sahkari Ganna Vikas Samiti Ltd., Ramgarh, Sitapur C/o Ayyubi Chamber, Raniganj, Lakhimpur Kheri-262701, U.P.	vs.	The Income Tax officer, Income Tax Office, Eye Hospital Road, Sitapur-208001
PAN: AACAS5053Q		
(Appellant)		(Respondent)

Assessee by:	Sh. Shubham Rastogi, C.A.
Revenue by:	Sh. Sudhakar Shukla, DR
Date of hearing:	13.08.2026
Date of pronouncement:	16.10.2026

O R D E R

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the ld. CIT(A) dated 05.12.2025, wherein the ld. CIT(A) has dismissed the appeal of the assessee against the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 by the Assessing Officer for the assessment year 2014-15 on 21.03.2018. The grounds of appeal are as under:-

> *"(1) That the Penalty Notice u/s 274 dated 08.12.2016 initiating penalty proceeding u/s 271(1)(c) of 1. T. Act did not specify that whether the Assessee has concealed the Particulars of Income or furnishing inaccurate particulars of Income and in absence of such charge, the penalty notice is invalid and subsequent penalty proceeding are liable to be quashed.*
>
> *WITHOUT PREJUDICE TO ABOVE*
>
> *(2) That the Ld. C. 1. T. (A) erred on facts and in law in confirming the penalty of Rs. 7,00,000/- imposed u/s 271(1)(c) of L. T. Act without appreciating that mere disallowance of Claim deduction under section 80P, the penalty cannot be levied.*

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(3) That the Ld. C.LT. (A) failed to consider that the Assessee has neither furnished inaccurate particulars of Income nor concealed the particulars of its Income. Accordingly, merely on disallowance of Claim does not ispo facto lead to levy of penalty u/s 271(1)(c) of I. T. Act.

(4) That the presently penalty is highly excessive, contrary to the facts, law and principle of natural justice and without providing sufficient time and opportunity to have its say on the reasons relied upon by CIT (A)."

2. At the very outset, it is observed that the appeal is time barred by 67 days. The assessee has filed a condonation petition accompanied by an affidavit in which it has been submitted that the order of the ld. CIT(A) dated 5.12.2025 was received by the assessee on its email. However, due to the cane crushing season, there was a huge rush of cane farmers in the cane society and the Secretary of the cane society was involved in handling of the complaints of cane farmers and accordingly due to this preoccupation, he could not send the appeal for filing. The assessee drew reference to the decision of the Hon'ble Supreme Court in the case of Collector of Land Acquisition Vs. MST. Katiji & Ors (1987)167 ITR 471 (SC) and the decision of the Hon'ble Madras High Court in Srinivas Charitable Trust vs. DCIT (2006) 154 taxman 377 (Madras) to submit that the assessee did not stand to benefit in any way by lodging the appeal late and refusing to condone the delay would lead to a meritorious matter being thrown out at the very threshold. It was further submitted that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserve to be preferred. Furthermore, no hard and fast rule could be laid down in the matter of condonation of delay and the Court must adopt a pragmatic approach keeping in mind the facts of the case and construing the expression, "sufficient cause" in a manner that giving prime importance should be given to the principle of advancing substantive justice. We have duly considered the aforesaid arguments and keeping the mind the

same, we condone the delay in the filing of the appeal and admit the same for adjudication.

3. The facts of the case are that the assessee earned interest amounting to Rs. 3,20,637/- as bank interest on FDRs / SB accounts and also an interest on refund of Rs. 4,59,872/-. Assessee claimed the interest on FDRs/SB accounts of Rs. 3,20,637/- as deductible under section 80P of the Act whereas the interest on refunds amounting to Rs. 4,59,872/- was not shown in the return of income. The ld. Assessing Officer show caused the assessee to asking why these amounts should not be treated as income from other sources and added back to the total income of the assessee in view of the decision of the Hon'ble Supreme Court Totgars Cooperative Sale Society Limited vs. ITO, (2010) 322 ITR 283 (SC). Since the assessee failed to furnish any satisfactory reply about the interest claimed deductible under section 80P, the ld. Assessing Officer held that it had furnished inaccurate particulars of income amounting to Rs. 3,20,637/- besides concealing income of Rs. 4,59,872/- for the interest not shown in the return. Penalty proceedings under section 271(1)(c) were initiated by way of issue of notice dated 8.12.2016. Following the confirmation of the assessment by the ld. CIT(A), Bareilly, the ld. Assessing Officer issued a further show cause notice to the assessee. He records the fact that no one made any compliance to the same. Therefore, the ld. Assessing Officer proceeded to levy the penalty on the basis of the materials before him. He noted that despite the fact that there was a judgment of Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Limited vs. ITO, (2010) 322 ITR 283 (SC), which held that interest received by Cooperative Societies on FDRs/SB accounts etc., did not come within the purview of deduction under section 80P of the Act and was liable to be added back to the total income of the assessee from other

sources, the assessee had still claimed the same. Therefore, the assessee had furnished the inaccurate particulars of income. Furthermore, with regard to the interest received on refunds, the assessee had not disclosed the same in his return and thereby concealed its income. Accordingly, the ld. Assessing Officer noted that the tax sought to be evaded was Rs. 6,96,081/- and he imposed a penalty of Rs. 7,00,000/- upon the assessee for the said default.

4. The assessee went in appeal before the ld. CIT(A). It submitted that the penalty had been levied merely on account of, "difference of opinion" regarding the allowability of deduction under section 80P on interest earned from FDRs/savings bank account and interest on refund and that the ld. Assessing Officer had not brought any independent material to show concealment or furnishing of inaccurate particulars. However, the ld. CIT(A) held that the said contention was *de void* of merit. He noted that the assessment records clearly demonstrated that the assessee had been confronted with the settled legal position as laid down by the Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Limited vs. ITO, (supra) but had still claimed deduction under section 80P for interest of Rs. 3,20,637/- and treated interest on refund of Rs. 4,59,872/- as exempt. The assessee had not offered any justification, supporting evidence or legal basis for the claim. Thus, the incorrect claim was not a result of any bonafide belief but the conscious act of making a deduction claims squarely contrary to settled law. The ld. CIT(A) therefore, held that the assessee's reliance on the Hon'ble Supreme Court order in the case of CIT vs. Reliance Petro Products (P.) Ltd. 322 ITR 158 (SC) was misplaced. He held that the deeming provisions of Explanation 1 to section 271(1)(c) were attracted and therefore, after refuting the submissions of the assessee regarding difference

of opinion or lack of proof on that account, he confirmed the penalty levied by the ld. Assessing Officer and dismissed the appeal of the assessee.

5. The assessee is aggrieved by the confirmation of the penalty and has accordingly filed this appeal. Sh. Shubham Rastogi, C.A. (hereinafter referred to as the ld. AR) argued that while he was not pressing ground no. 1 of the appeal, the same is dismissed as withdrawn. He was relying upon the order of the Coordinate Bench of the ITAT Lucknow in the case of Co-operative Cane Development Union Limited, Maholi vs. The Assistant Commissioner of Income Tax, Sitapur (New) in ITA No. 164/LKW/2023, wherein the Coordinate Bench had considered the identical matter and held that the penalty was not leviable upon the assessee. It was submitted that as in the case of Cooperative Cane Development Union Limited, Maholi, the assessee had made the claim for deduction under section 80P in a bonafide manner and backed by the decision of the Hon'ble Allahabad High Court in the case of ***Commissioner of Income Tax vs. Cooperative Cane Development Union Limited*** 118 ITR 770 (All) and the decision in the case of Hon'ble Allahabad High Court in ***CIT vs. Krishak Sahkari Ganna Samiti Ltd 258 ITR 594 (Alld)***. The ITAT had observed in that case that since the assessee was required to place certain amount of its profits in specified modes as per the provisions of sections 58 and 59 of the U.P. Cooperative Societies Act, 1965 r.w.r. 173 of the U.P. Cooperative Societies Rules, 1968, the interest derived from such investments were, "attributable to" to the activities of the cooperative society and therefore, the interest derived on such investments were eligible for deduction under section 80P of the Act. Furthermore, the deposits made on account of Provident Funds were not the investments of the assessee and the interest earned on the same, could not be said to be the interest income of the assessee as it was a liability to be paid to the beneficiaries who were

the temporary employees. Therefore, the facts of the assessee's case were different from the facts of the judgment of the Hon'ble Supreme Court in the case of Totgars Cooperative Sale Society Limited vs. ITO, (supra) and a mere rejection of its legitimate claim would not automatically render the case liable for penalty. The ITAT had placed reliance on the decision of the Hon'ble Supreme Court in CIT vs. Reliance Petro Products (P.) Ltd. 322 ITR 158 and PCIT vs. Baroda Uttar Pradesh Gramin Bank (2022) 138 taxman.com 449 (All). Thus, in this case also, since the same facts applied, the assessee could not be penalized for furnishing of inaccurate particulars of income. Furthermore, the ITAT had held in the matter of interest received on refunds from the Income Tax Department, that it was not on account of some undisclosed income but where the assessee had shown 4.4 Crores of turnover, it could not be but held that it was an omission rather than an attempt to evade tax and relying upon the decision of the Hon'ble Supreme Court in the case of Hindustan Steel Limited vs. State of Orissa (1972) 83 ITR 27, it had deleted the penalty. The ld. AR prayed that since the fact of the assessee's case were identical to that in the case of Cooperative Cane Development Cane Union, Maholi, the penalty in its case should also be deleted.

6. On the other hand, Sh. Sudhakar Shukla, Sr. DR (hereinafter referred to as the ld. DR) pointed out that there was concealment according to the fact that the interest received on Income tax refund had not been disclosed by the assessee in its ITR and there was filing of incorrect particulars of income because the assessee had wrongly claimed a deduction under section 80P, which was against the judgment of the Hon'ble Supreme Court in the case of Totgars. He submitted that the direction in respect of section 80P(2) was available to only the operational income from business and other interest

income which accrued to the assessee society, could not be said to be attributable to the activities of the society. Therefore, the assessee could not have claimed the deduction which it did and by doing so it had filed inaccurate particulars of income, which would not have come to light had the case not been taken up for. He, therefore, prayed that the penalty may kindly be sustained.

7. We have duly considered the facts and circumstances of the case and the arguments advanced by both parties. We find that in the case of Cooperative Cane Development Limited, Maholi in ITA No. 164/LKW/2023, vide its order dated 30.09.2024, the Coordinate Bench has considered the identical issues and observed as under:-

> *"11. However, on dealing with the issue on merits, it is observed that in the quantum appeal of the assessee in ITA Nos. 165, 166 & 168/Lkw/2023, we have observed that the order of the Hon'ble ITAT, Lucknow Bench in ITA No. 467/Lkw/2013 in the case of Income Tax Officer vs. Sahkari Ganna Vikas Samiti Limited is applicable to the facts of the assessee's case also. In short, it has been held that the claim of the assessee was a bonafide claim and backed by the decision of the Hon'ble High Court in the case of CIT vs. Cooperative Cane Development Union Limited reported in 118 ITR 770 and the decision of the Hon'ble High Court in CIT vs. Krishak Sahkari Ganna Samiti Limited reported in 258 ITR 594 and that, in view of the fact that like Krishak Sahkari Ganna Samiti Limited, since the assessee was required to place a certain amount of its profits in specified modes as per the provisions of sections 58 and 59 of the U.P. Cooperative Societies Act, 1965 r.w.r. 173 of the U.P. Cooperative Societies Rules, 1968, the interest derived from such investments were, "attributable to" to the activities of the cooperative society and therefore, the interest derived on such investments were eligible for deduction under section 80P of the Act. We have further observed that the deposits made on account of Provident Funds of the employees were not the investments of the assessee and the interest earned on the same, could not be said to be the interest income of the*

assessee as it was a liability to be paid to the beneficiaries who were the temporary employees. That being the case, in view of our findings that the facts of the assessee's case were different from the facts observed by Hon'ble Supreme Court in the case of M/s Totgars Cooperative Society Limited vs. ITO (supra) and that the two judgments of the Hon'ble Allahabad High Court cited by the ld. Sr. DR, which had affirmed the principle laid down by the Hon'ble Supreme Court were therefore, distinguishable from the facts of the assessee's case, it cannot be said that the assessee had filed any inaccurate particulars of income which would require the levy of penalty under section 271(1)(c). Be that as it may, it is also observed that the ld. AR has drawn our attention to a number of cases where it has been held by the Hon'ble Courts that a mere rejection of legitimate claim for exemption under various sections of the Act, would not automatically render the case liable for penalty. Among the cases cited are those of PCIT vs. Baroda Uttar Pradesh Gramin Bank (2022) 138 taxman.com 449 (All), Devsons (P.) Ltd. vs. CIT [2011] 8 taxmann.com 87 (Del) and M/s Rave Entertainment (P.) Limited vs. CIT, 2016 66 taxman.com 369 (All). It is observed that in view of the fact that there were judgments in its favour which allowed it to claim deduction on such interest which emanated out of investments made on account of statutory requirements, the assessee could not be faulted for filing a claim of deduction with respect to such interest. The Hon'ble Supreme Court in the case of CIT vs. Reliance Petro Products 322 ITR 158, 2010 has laid down that the words, "inaccurate particulars" mean that the details supplied in the return are not accurate, not exact or correct, not according to the truth or erroneous. It was also held that the mere making of claim which is not sustainable by law, by itself will not amount to furnishing inaccurate particulars of income. No instance has been brought on record of the assessee filing anything in the return which is not accurate, exact or correct or untruthful. In the circumstances, merely because the ld. Assessing Officer did not accept its claim under section 80P, that by itself could not be a ground for levy of penalty under section 271(1)(c).

12. With regard to the charge that the assessee has concealed its income by not furnishing details of interest under section 244A on Income tax refund, it is observed that the assessee has filed a return in which it has shown a turnover of more

than Rs. 4.4 Crores. In that event, it does not stand to reason that the assessee would intentionally seek to evade tax on a sum of Rs.1,57,302/- and it is obvious that the same is merely an omission made at the time of filing the return. It is also appropriate to note that the omission is not on account of some undisclosed source of income – which may point towards an attempt of concealment, but of interest on a refund issued by the income tax department which formed part of the records of the Department. Thus, it is inconceivable that the assessee would attempt to conceal such a receipt and this by itself, leads us to believe that it is an omission and a technical breach rather than an attempt at concealment. It is observed that the assessee has not contested the addition made on this account by filing of any appeal. In the case of Hindustan Steel Limited vs. State of Orissa (1972) 83 ITR 27, the Hon'ble Supreme Court had held as under:-

> *"An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi- criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged, either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."*

13. Therefore, after considering the extent of receipts disclosed by the assessee in its return and the possibility that the interest earned on Income tax refund of Rs.1,57,302/- appears to be an omission, rather than an attempt to evade tax, relying upon the spirit of the aforementioned Hon'ble Supreme Court's decision, it is held that the levy of penalty under section 271(1)(c) was not warranted on account of such technical breach. Accordingly, the penalty imposed on the assessee on both charges of concealment of income and furnishing of an inaccurate income is deleted."

10. Accordingly, following the judgment of the Coordinate Bench on identical facts rendered in the case of Co-operative Cane Development Union

Limited in ITA No. 164/LKW/2023, we hereby delete the penalty of Rs. 7,00,000/- levied by the ld. Assessing Officer under section 271(1)(c). Ground nos. 2 & 3 are accordingly allowed. Ground no. 4 does not require adjudication.

11. In the result, the appeal of the assessee is held to be partly allowed.

Order pronounced on 16.10.2026 in the open Court.

Sd/-	***Sd/-***
[KUL BHARAT]	**[NIKHIL CHOUDHARY]**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

DATED: 16/10/2026
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Copy forwarded to:
1. Appellant –
2. Respondent –
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.