

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **3005/CHNY/2019**

निर्धारण वर्ष /Assessment Year: 2016-17

The Income Tax Officer,
Ward-3,
Namakkal.

v. **Rasipuram Agricultural Co-
operative Marketing Society**
Ltd.,
Chinnamuthu Street, Rasipuram,
Namakkal – 637 017.

(अपीलार्थी/Appellant)

PAN: AAAJR 0319M
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT
: Shri S. Sridhar, Advocate(Erode)

सुनवाई की तारीख/Date of Hearing : 08.06.2022

घोषणा की तारीख/Date of Pronouncement : 15.06.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the Revenue is arising out of the order of Commissioner of Income Tax (Appeals), Salem in ITA No.295/2018-19, order dated 24.07.2019. The assessment was framed by the Income Tax Officer, Ward-2, Tiruchengode for the assessment year 2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 21.12.2018.

2. At the outset, it is noticed that the appeal filed by the Revenue is time barred by 4 days. The Revenue has filed condonation petition along with affidavit stating the reason that the Department has dispatched the duly filled Form 36 of departmental appeal on 16.10.2019 vide Postal Tracking No.RT497643409IN but it was received in the Tribunal only on 24.10.2019. The delay in filing of appeal is due to delay in delivery of tapal by postal authorities and hence the Id.Senior DR stated that the AO has filed affidavit qua this fact which is placed on record and requested for condonation of delay. When these facts were put to Id.counsel for the assessee, he has not objected for condonation of delay. Since the delay is for a short period of 4 days and we find cause as reasonable, we condone the delay and admit the appeal.

3. The only issue in this appeal of Revenue is against the order of CIT(A) in allowing the claim of deduction to assessee u/s.80P(2)(a)(i) of the Act.

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee society is a registered co-operative society under the Tamil Nadu Co-operative Societies Act, 1961. For the relevant assessment year 2016-17, the assessee society filed its return of income and claimed deduction

u/s.80P(2)(a)(i) of the Act for an amount of Rs.1,89,24,514/-. The AO during the course of assessment proceedings noted that the deduction to a co-operative society u/s.80P(2)(a)(i) can be granted when it is engaged in carrying on the business by providing credit facility to its members. He noted that in the present case, the 'member' means share holding members only and not the associated member or 'B' class member. On perusal of details of interest income, he noted that major portion of interest receipts are jewel loans granted to associate members or 'B' class members. Accordingly, he denied the claim of deduction and secondly he noted that as per amended provisions of section 80P(4) of the Act, the assessee is not entitled for deduction as the assessee is name sake 'primary agriculture co-operative society' but is engaged predominantly in the activity of banking business. Aggrieved, assessee preferred appeal before CIT(A).

5. The CIT(A) deleted the addition and allowed the claim of deduction by following the Co-ordinate Bench decision in the case of M/s. S-1308, Ammapet Primary Agricultural Co-operative Bank Ltd., in ITA No.2338/Mds/2017, order dated 28.02.2018. The CIT(A) observed in para 6 as under:-

“6. I have perused the assessment order and orders of the Hon'ble ITAT 'D' Bench, Chennai as referred above dated 28.02.2018 in the case of M/s. S-1308, Ammapet Primary Agricultural Co-operative Bank Ltd in order No.2338/Mds/2017. In the above cases, the Hon'ble ITAT has decided the issues in favor of the appellant. Further, the Hon'ble High court of Madras has dismissed the departmental appeals in the case of The

PCIT, Salem vs. M/s. S-1308 Ammapet PACCS Ltd in tax appeal Nos.882 and 891 of 2018. The facts and circumstances are exactly the same. Therefore, respectfully following the decision of the Hon'ble High Court of Madras, cited supra, the contentions of the assessee are accepted and the grounds of appeal are allowed.”

6. We noted that even this issue is now covered by the Co-ordinate Bench decision in the case of Tamilnadu Co-operative State Agriculture and Rural Development Bank Limited in ITA Nos.31 to 33/CHNY/2021, order dated 29.04.2022, wherein following the decision of Hon'ble Supreme Court in the case of The Mavilayi Service Co-operative Bank Ltd., Mavilayi Service Co-operative Bank Ltd., vs. CIT, [2021] 123 taxmann.com 161, we decided both the issues raised by AO. Respectfully following the same, we allow the claim of deduction u/s.80P(2) of the Act. Accordingly, the appeal of the Revenue is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 15th June, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 15th June, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त /CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT