

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.: **541/CHNY/2021**
निर्धारण वर्ष /Assessment Year: 2018-19

**The Erode Agricultural
Products Co.op Marketing
Society Limited,**
No.293, Cauvery Road,
Karungalpalayam,
Erode – 638 003.

The DCIT,
vs. Circle -1,
Erode

PAN: AAAAT 8556D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri Ravindra T. Mishra, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.07.2022

घोषणा की तारीख/Date of Pronouncement

: 18.07.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, in Appeal No.CIT(A), Coimbatore – 3/10407/2019-20 dated 30.10.2021. The return of income was

processed / intimation issued u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') by the DCIT, CPC, Bengaluru for the assessment year 2018-19 dated 16.10.2019.

2. The only issue in this appeal of assessee is that the CIT(A) has not considered the claim of deduction made by assessee u/s.80P of the Act, without waiting for the outcome of condonation petition filed before the CBDT. For this, assessee has raised following Ground No.2:-

2. The learned CIT(A) erred in not considering the fundamental fact the Assessing Officer, while processing the return of income u/s.143(1), denied the claim of deduction made by the appellant u/s.80P of the IT Act, without waiting for the outcome of the condonation petition filed before the CBDT.

3. At the outset, it is noticed that the assessee has moved adjournment petition asking for adjournment, as he is not feeling well and not able to attend the hearing. But, going through the order of CIT(A) and the grounds raised before us that the CIT(A) has simpliciter dismissed the appeal and directed the AO to allow appropriate relief as per the decision of CBDT in view of application filed by the assessee u/s.119(2) of the Act, in regard to condonation. The CIT(A) observed and dismissed the appeal as under:-

Accordingly, while processing the return of income on 16-10-2019, the deduction claimed under section 80P was not allowed. Considering the facts and circumstances of the case, I find no infirmity in the intimation of CPC aforementioned as its an undisputed fact that the case of the appellant is squarely covered with the amended provision of section 80AC. In its submission the appellant has contended that an application under section 119 (2) has been made by them on 27-11-2019 has been made to CBDT requesting for relaxing the requirements under chapter VIA of the Income tax Act, 1961. In view thereof it was requested to decide the appeal after the disposal of the petition filed before CBDT. After a careful consideration, I am unable to exceed to such request as the issue in the present appeal is about the allowance of the claim under section 80P claimed in the return of income. As already observed earlier in this regard, the disallowance of the deduction while processing the return is in accordance with the provisions of the Act. Therefore, the ground of appeal is decided against the appellant and the adjustment made by CPC is sustained. However, the AO is directed to allow appropriate relief in the matter on the eventuality of any decision of CBDT in the matter of appellant's application under section 119 (2). Hence this ground may be treated as dismissed.

4. When these facts were pointed out to Id. Senior DR, he stated that the matter is already restored back to the file of the AO. After hearing Id. Senior DR and going through the facts, we are of the view that the appeal dismissed by CIT(A) is without any basis but for the time being, the order of AO and that of the CIT(A), both are set aside and matter remanded back to the file of the AO, who will consider the final finding of CBDT in the matter of assessee's

condonation application filed u/s.119(2) of the Act and thereafter decide the issue as per law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18th July, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 18th July, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |