

आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM  
AND SHRI DR. DIPAK P. RIPOTE, AM

आयकर अपील सं./ ITA No.218/PUN/2019  
निर्धारण वर्ष / Assessment Year : 2011-12

The Karad Merchants Credit Co-Op. Society Ltd.,  
7,8, Somwar Peth, Karad,  
Tal – Karad,  
Dist - Satara  
Pin -415 110

PAN : AAAAT0955A

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-1, Satara

.....प्रत्यर्थी / Respondent

Assessee by : Smt. Deepa Khare  
Revenue by : Shri M.G.Jasnani

सुनवाई की तारीख / Date of Hearing : 11.10.2022  
घोषणा की तारीख / Date of Pronouncement : 17.11.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM :**

1. This assessee's appeal for AY 2011-12 arises against the CIT(A)-2, Pune's order dated 29/03/2016 passed in case No. PN/CIT(A)-2/ITO Wd-1 /Sat/292/2011-12 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short "the Act".

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the assessee's instant appeal suffers from 958 days delay in filing. A perusal of its condonation petition dated 07.07.2022 reveals that after the CIT(A)'s order dated 29.03.2016, it had filed section 154 rectification dated 27.04.2016 which had not been decided as on the date of institution herein dated 07.02.2019. The assessee further pleads that it had also submitted a reminder (copy enclosed) dated 19.11.2018 before the CIT(A) to the very effect. All these factual averments sufficiently indicate that the assessee was pursuing its rectification remedy all along and the impugned delay is neither institutional nor deliberate but on account of pendency of the said proceeding only. Faced with this situation, we quote hon'ble apex court's landmark decision Collector Land Acquisition V/s. Mst. Katiji & Others (1987) 167 ITR 471 (SC) setting the law long back that such all technical aspects must make way for the cause of substantial justice. The assessee's instant condonation petition is accepted. The case is now taken up for adjudication on merits.

3. Learned counsel next pleads that the assessee does not wish for its former substantive ground claiming section 80P(2)(a)(i) deduction disallowance involving correct claim of Rs.4,85,47,475/- in light of CIT(A)'s favourable adjudication in the forgoing rectification. This first and foremost ground is dismissed as not pressed in above terms.

4. Next comes that the assessee's latter subsequent ground seeking to delete section 43B Audit Fees disallowance of Rs.11,49,041/- made in both the lower proceedings. A perusal of the CIT(A)'s order in page 5 para 5

suggests that he has nowhere adjudicated the same. The very factual position continues in assessee's forgoing rectification petition (supra) as well. We thus restore the instant latter subsequent ground back to the CIT(A) for his appropriate jurisdiction as per law. Ordered accordingly.

5. This assessee's appeal is partly allowed for statistical purposes in above terms.

Order pronounced in the Open Court on this 17<sup>th</sup> day of November, 2022.

<b>Sd/-</b> <b>(DR.DIPAK P.RIPOTE)</b>	<b>Sd/-</b> <b>(S.S. GODARA)</b>
लेखा सदस्य/ <b>ACCOUNTANT MEMBER</b>	न्यायिक सदस्य/ <b>JUDICIAL MEMBER</b>
पुणे / Pune; दिनांक / Dated : 17 <sup>th</sup> November, 2022.	
Ashwini/ <i>Sujeet</i>	

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Pune.
4. The Pr.CIT-3, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.