

आयकर अपीलिय 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 Nos.638 & 640/Chny/2022
निर्धारण वर्ष /Assessment Years: 2018-19 & 2019-20

AA 368 Appakudal Pudupalayam
Agri Co-Op. Credit Society,
Pudupalayam, Sakthi Nagar,
Erode – 638 315.
[PAN: AACAA-0858-K]

The Dy. Commissioner of
Income Tax /
Vs. The Asst. Director of Income
Tax,
Centralized Processing Center,
Bengaluru.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: None
: Shri M. Rajan, CIT &
Ms. Jancy Elizabeth, JCIT

सुनवाई की तारीख/Date of Hearing

: 30.01.2023

घोषणा की तारीख /Date of Pronouncement

: 30.01.2023

आदेश / ORDER

Per Mahavir Singh, Vice President :

These two appeals by the assessee are arising out of the orders of Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi, [CIT(A)] in Appeal Nos.NFAC/2017-18/10033694 & CIT(A), Coimbatore-3/10113/2020-21 both dated 10.06.2022. The

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returns of income for the assessment years 2018-19 & 2019-20 was processed by DCIT & ADIT, CPC, Bengaluru by issuing intimations u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') dated 09.08.2019 & 06.08.2020, respectively.

2. The only common issue in these two appeals of the assessee is as regards to the order of CIT(A) not considering the fundamental fact that the assessee has moved of condonation petition for filing delayed return of income before Central Board of Direct Taxes (CBDT) and without waiting the outcome of the condonation petition CIT(A) confirmed the action of the Assessing Officer (AO) in denying the claim of deduction made by assessee u/s. 80P of the Act, while processing the return of income u/s. 143(1) of the Act. For this, the assessee has raised identical worded grounds in both the years and the facts and circumstances are also identical. The relevant ground No.2 as raised by the assessee in ITA No.638/Chny/2022 for A.Y 2018-19 reads as under:

"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. We have heard Ld. CIT-DR and Sr. D.R. Despite issuance of notice, assessee moved adjournment petition but going through the file, it is noticed that without the presence of the assessee the matter can be decided. Hence, we took up the matter and decided to adjudicate the same.

4. At the outset, the Ld. CIT-DR as well as Ld. Sr. D.R has not raised the objection as regards to restoring the matter back to the file of the CIT(A) and to await the decision of CBDT in regard to assessee's condonation petition for condonation of late filing of return of income and consequently deciding the deduction u/s. 80P of the Act. In term of the above, we restore these two appeals of assessee back to the file of the CIT(A). We also direct the concerned A.O to take up the matter with the CBDT for expediency disposal of the relevant condonation petition filed before CBDT by the assessee for condonation of late filing of returns of income for the relevant A.Ys 2018-19 & 2019-20. In term of the above, the orders of the lower authorities in both the A.Ys are set aside and both the appeals of the assessee are allowed for statistical purposes.

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5. In the result, both the appeal of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 30th January, 2023.

Sd/-
(मनोज कुमार अग्रवाल)
(Manoj Kumar Aggarwal)
लेखा सदस्य /Accountant Member

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 30th January, 2023
EDN/-

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