

आयकर अपीलिय अधिकरण, 'सी/एस एम सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C/SMC' BENCH: CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**

आयकर अपील सं./ITA No.998/Chny/2022  
निर्धारण वर्ष /Assessment Year: 2017-18

**K.809 Udumalai Pappankulam**  
**Primary Agri. Co-Op. Credit**  
**Society,**  
Pappankulam, Madathukulam,  
Udumalpet – 642 204.

**The Income Tax Officer,**  
Ward-2(4),  
**Vs. Tirupur.**

**[PAN: AABAK-3729-L]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

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

: Shri S.Sridhar, Advocate (Erode)  
: Shri S. Chandrasekaran, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.03.2023

घोषणा की तारीख /Date of Pronouncement

: 07.03.2023

**आदेश / ORDER**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [CIT(A)] in Appeal No.CIT(A), Coimbatore-3/11457/2019-20 dated 25-08-2022. The Assessment was framed by Income Tax Officer, Ward-2(4), Chennai for the relevant A.Y. 2017-18 vide order dated 30.12.2019 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

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2. At the outset it is noticed that this appeal is time barred by 32 days. As per Form-36, the date of service or communication of the appellate order is 25.08.2022 and the appeal before the Tribunal is to be filed on or before 23.10.2022, whereas the appeal was filed by the assessee on 25.11.2022. Thereby, there is a delay of 32 days. The assessee has stated reasons that during this period the Secretary of the assessee was ill and due to that the appeal could not be filed. When this fact was confronted to Ld. Sr. D.R he could not controvert the above fact situation. After going through the reasons stated by the assessee in his affidavit for condonation of delay, the reasons seems to be reasonable and hence, I condone the delay and admit the appeal for adjudication.

3. It is noticed that even before CIT(A), the assessee filed a delayed appeal and there was delay of 53 days. The CIT(A) has not confronted the aspect of delay before CIT(A). Now, before us the Ld. counsel for the assessee explained that the assessee filed writ petition before the Hon'ble Madras High Court on 13.02.2020 challenging the validity of the assessment order, which was subsequently dismissed by judgment dated 17.02.2020 in Writ Petition No.3771 of 2020 and thereby, the assessee could file the appeal before CIT(A) with a delay of 53 days. According to Ld. counsel when the assessee was availing

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alternative remedy, the CIT(A) should have condoned the delay. When these facts were confronted the Ld. Sr. D.R, he stated that the assessee is a habitual defaulter and hence, CIT(A) has rightly not condoned the delay. After going through the facts of the case, I am of the view that before the Tribunal there was a delay of 35 days and there was further delay before CIT(A) of 53 days, that the issue prima facie seems a reasonable in respect of claim of deduction u/s. 80P of the Act in regard to the members of the society, hence substantial justice should not be defeated. Hence, by imposing a cost of Rs. 10,000/-, I condone the delay before the CIT(A). Since, the CIT(A) has not condoned the delay and not adjudicated the issues on merits, I after condoning the delay remand the matter back to the file of CIT(A) for deciding the issue on merits. However, this would be subject to a payment of cost of Rs.10,000/- to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras before appearing CIT(A). The CIT(A) will ensure that this cost of Rs. 10,000/- is to be paid by the assessee to the Tamil Nadu State Legal Services Authority. In term of the above, the order of CIT(A) is set aside and remand the matter back to the file of CIT(A) for fresh adjudication.

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4. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the Open Court on 07<sup>th</sup> of March, 2023.*

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

चेन्नई/Chennai, दिनांक/Dated: 07-03-2023  
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF