

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी) न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH, CHENNAI**

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

आयकर अपील सं./ITA No.: **152/CHNY/2023**
निर्धारण वर्ष/Assessment Year: 2018-19

**M/s. K 248 Karunaipalayam
Primary Agricultural Co-
operative Credit Society,**
Velayuthampalayam Post,
Avinashi Taluk,
Tirupur – 641 654

The Income Tax Officer,
Vs. Ward 1(3),
Tirupur.

PAN: AAALK 1171A
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: None
: Shri S. Chandrasekaran, JCIT

सुनवाई की तारीख/Date of Hearing : 09.03.2023
घोषणा की तारीख/Date of Pronouncement : 09.03.2023

आदेश /ORDER

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No.NFAC/2017-18/10146458 dated 03.01.2023. The return of income was processed and intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') was issued by the DCIT, CPC, Bengaluru for the assessment year 2018-19 vide order dated 31.05.2019.

2. The only issue in this appeal of assessee is as regards to CIT(A) not considering the fact that the assessee has moved condonation petition for filing delayed return of income before CBDT and without waiting the outcome of the condonation petition CIT(A) confirmed the action of the AO in denying the claim of deduction u/s.80P of the Act on the ground that the assessee has not filed return of income on the specified date u/s.139(1) of the Act.

3. When the appeal was called for hearing, none is present from assessee's side. On going through the facts of the case, I noticed that this case can be decided ex-parte qua assessee. Hence, appeal was taken up for hearing ex-parte, qua assessee.

4. The fact is that the assessee filed its return of income for the assessment year 2018-19 on 31.12.2018 u/s.139(4) of the Act and not within the due date as prescribed u/s.139(1) of the Act. Hence, the claim of deduction u/s.80P of the Act was disallowed by the AO. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of the AO. Aggrieved, assessee is in appeal before the Tribunal.

4. From the facts of the case, I noted that the only request of assessee now before us is that the assessee's representation to

CBDT praying for condonation of delay in filing return of income u/s.139(1) of the Act is pending u/s.119(2)(c) of the Act. In view of the request of assessee that the assessee's condonation petition is pending before CBDT u/s.119(2)(c) of the Act, I set aside the orders of lower authorities and remand the matter back to the file of AO to await the decision of CBDT and thereafter decide the case of assessee. The assessee will take steps to pursue with the CBDT and the Income Tax Department will also pursue the condonation application and hopefully, the CBDT will decide the condonation petition as early as possible. In term of the above, the appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 9th March, 2023 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 9th March, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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