

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' SMC BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member

आयकर अपील सं./I.T.A. No.178/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

K-730 Vellithiruppur Primary
Agricultural Co-operative Bank Ltd.,
Vellithiruppur Post, Bhavani Taluk,
Erode 638 314.

Vs. The Deputy Commissioner of
Income Tax, CPC,
Bengaluru.

[PAN:AABAK5739L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 07.06.2023
घोषणा की तारीख /Date of Pronouncement : 09.06.2023

आदेश /ORDER

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi dated 20.12.2022 relevant to the assessment year 2018-19.

2. Brief facts of the case are that the assessee has filed the return of income for the assessment year 2018-19 on 11.03.2019 admitting Nil income after claiming deduction under section 80P of the Income Tax Act, 1961 ["Act" in short]. The DCIT CPC, Bengaluru, while processing the

return of income disallowed the claim of the assessee under section 80P of the Act and passed intimation under section 143(1) of the Act dated 31.05.2019.

3. The assessee carried the matter in appeal before the Id. CIT(A). Since the assessee has not filed the return of income within the due date of filing as specified under section 139(1) of the Act, the Id. CIT(A) confirmed the assessment and dismissed the ground raised by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing copy of the application under section 119(2) of the Act, the Id. Counsel for the assessee has submitted that the assessee has filed a condonation petition before the CBDT under section 119(2) of the Act to condone the delay in filing the return of income. It was further submission that despite having time to process the return of income under section 143(1) of the Act, the CPC, Bengaluru hurriedly processed the same by denying the claim of deduction under section 80P of the Act.

5. On the other hand, the Id. DR supported the orders of authorities below.

6. Heard both the sides, perused the materials available on record

and gone through the orders of authorities below. In this case, since the return of income was not filed within the due date of filing as specified under section 139(1) of the Act, the DCIT, CPC, Bengaluru disallowed the claim of deduction under section 80P of the Act and the Id. CIT(A) confirmed the assessment order.

6. 1 Before the Tribunal, the Id. Counsel for the assessee has argued that despite having time to process the return of income under section 143(1) of the Act, DCIT-CPC, Bengaluru hurriedly processed the return of income under section 143(1) of the Act without waiting for the outcome of the condonation petition filed before the CBDT. In view of the fact that the assessee has filed an application for condonation of delay before the CBDT under section 119(2)(b) of the Act, it is opined that once the delay condonation is pending before the CBDT, the Department ought to have waited for the decision of the CBDT, for the reason that, if the CBDT condone the delay, the claim of the assessee has to be considered in accordance with law. Therefore, the appellate order passed by the Id. CIT(A) is set aside and remit the matter back to the file of the Id. CIT(A) to wait for the decision on the condonation petition filed by the assessee before the CBDT and thereafter pass order in accordance with law.

7. In the result, the appeal filed by the assessee is allowed for

statistical purposes.

Order pronounced on 09th June, 2023 at Chennai.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 09.06.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.