

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.377/Chny/2022
निर्धारण वर्ष/Assessment Year: 2018-19

Neyyoor P A C C S Ltd No. 398,
398, Neyyoor West, Neyyoor Post,
Kanyakumari District,
Tamil Nadu 629 803.

Vs. The Income Tax Officer,
Ward 3,
Nagercoil.

[PAN:AAEAN0731E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 08.06.2023
घोषणा की तारीख /Date of Pronouncement : 14.06.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

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 both dated 21.03.2022 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 22.01.2019 admitting Nil income after claiming deduction under section 80P of the Income Tax Act,

1961 [“Act” in short] of ₹.22,36,570/-. The ADIT 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 and accordingly, 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. We have 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 for both the assessment years were 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 disallowance made under section 80P of the Act by the Assessing Officer.

6. 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, the 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, we set aside the order passed by the Id. CIT(A) 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, both the appeals filed by the assessee are allowed for

statistical purposes.

Order pronounced on 14th June, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 14.06.2023

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.