

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.783/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2019-20

K1578 Senjeriputhur Primary  
Agricultural Co-operative Credit  
Society, Senjeriputhur, Senjeriputhur  
Post, Palladam, Tirupur 641 671.

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

**[PAN:AABAK0914F]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate (Erode)  
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT  
सुनवाई की तारीख/ Date of hearing : 25.07.2023  
घोषणा की तारीख /Date of Pronouncement : 25.07.2023

**आदेश /ORDER**

**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 dated 04.05.2023 relevant to the assessment year 2019-20.

2. Brief facts of the case are that the assessee has filed the return of income for the assessment year 2019-20 on 30.09.2020 admitting Nil income after claiming deduction under section 80P of the Income Tax Act,

1961 ["Act" in short]. The CPC, Bengaluru, while processing the return of income disallowed the claim of deduction under section 80P of the Act and passed intimation under section 143(1) of the Act dated 04.01.2021.

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 disallowance of deduction claimed under section 80P of the Act 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. 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 the assessment year was not filed within the due date of filing as specified under section 139(1) of the Act, the CPC, Bengaluru disallowed the claim of deduction under section 80P of the Act. During the course of appellate proceedings, the assessee has filed condonation application before the CBDT. However, the Id. CIT(A) dismissed the appeal filed by the assessee.

7. Before the Tribunal, the Id. Counsel for the assessee has submitted that getting the audit report before the due date of filing of return of income under section 139(1) of the Act was beyond the control of the assessee. It was further submission that since the audit under TN Co-operatives Societies Act, 1983 was over on 28.11.2019 and served the tax audit report after the due date of filing the return of income under section 139(1) of the Act, the assessee filed the return of income belatedly. On perusal of the appellate order, we find that the Id. CIT(A) has noted that the assessee has filed a petition dated 05.03.2021 before the CBDT for condonation of delay under section 119 of the Act.

8. 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, we are of the considered opinion that pending decision of the CBDT on

the delay condonation application of the assessee, 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.

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

Order pronounced in the open Court on 25<sup>th</sup> July, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 25.07.2023

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.