

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.: 909/CHNY/2023
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. TY SPL 85Z Suthamalli
Primary Agricultural Co-Oper
Credit Society Limited,
1/99 Main Road,
Suthammalil Village,
Udayarpalayam Taluk,
Ariyalur District,
Tamil Nadu 621 804.

The Income Tax Officer,
Vs. Circle 1(1)
Trichy.

[PAN: AAFAT 9423L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri. G. Reddi Prakash, FCA
: Shri G. Suresh, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 01.01.2024

घोषणा की तारीख/Date of Pronouncement

: 01.01.2024

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 order No.ITBA/NFAC/2023-24/1053870009(1) dated 22.06.2023. The assessment was framed by the Assessing Officer, National e-Assessment centre, Delhi for the assessment year 2018-19 u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 13.02.2021.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the deduction made by the Id. Assessing Officer in disallowing the claim of deduction u/s.80P(2)(a)(i) of the Act for the relevant assessment year 2018-2019 for the reason that assessee had filed return of income after the due date prescribed u/s.139(1) of the Act. Aggrieved, by the order of the Id. CIT(A), assessee is in appeal before the Tribunal.

3. At the outset, the Id.Counsel of the assessee filed copy of condonation petition dated 27.12.2023 filed before the Chief Commissioner of Income Tax, Madurai u/s.119 of the Act for condoning the delay in filing the appeal which reads as under:-

"I wish to bring to your esteemed attention the delay incurred in filing the above mentioned Return. This delay was primarily attributed to the postponement in complying with the audit requirements under section 80 of the Tamil Nadu Co-operative Society Act, 1983. In accordance with Circular F.No.173/21/2023-ITA-I dated 26th July 2023, which delineates the guidelines for Co-operative Societies claiming deductions under section 80P of the Act for various assessment years spanning from AY 2018-2019 to AY 2022- 2023, there is provision for the condonation of delay in furnishing the return of income. This circular further instructs that such belated returns be treated as though they were furnished within the due date specified under section 139(1) of the Act. The delay in our case was directly attributable to the delayed completion of the audit of our accounts as mandated by the state laws. Detailed reason is attached below in accordance with the Assessment year:-

Assessment Year	Extended Due Date	Date of signing of Co-Op Audit Report/ Receiving the Audit Report by the Society.
2018-2019	31.10.2018	26.10.2018

The Cooperative Audit report, bearing the official signature of the Assistant Director of the Cooperative Department on 26-10-2018, was not promptly issued to the society upon signing. The extended due date for filing the return of income for the Assessment Year 2018-19 was 31-10-2018, allowing only a five-day window for compliance from the date of signing

the audit report but typically, the issuance of the report to the secretary takes approximately one month. As soon as the report was received by the secretary of the society, the secretary has approached a Chartered Accountant for filing of the Income Tax Return, and the same has been filed on 29-11-2018 under section 139(4).

It is evident from the provided information that the delay of 29 days in filing the return of Income was primarily a consequence of circumstances beyond the assessee's control, specifically the time-consuming nature of the cooperative audit.

In accordance with Circular F.No.173/21/2023-ITA-1, which recognizes and accommodates delay arising from uncontrollable factors, we seek your understanding and request the condonation of this delay. As our cooperative society is eligible for deduction under section 80P of the Act, and the delay is directly linked to the extended audit process, we kindly urge you to allow us to claim the deduction by considering the circumstances described. We assure you of our willingness to furnish any additional evidence required during the course of proceedings.

Enclosure

1. Proof for date of Signing or receiving the Cooperative Audit report and Balance sheet, Trading Account and Profit & Loss for the respective years''.

Ld. Counsel for the assessee only made submission that the order of the Id. CIT(A) be set aside and the matter can be remitted back to his file to decide afresh after the decision of the Chief Commissioner of Income Tax, Madurai on condonation petition for condoning the delay in filing the return of income for the relevant assessment year 2018-2019. For this proposition the Id. Senior Departmental Representative also agreed.

4. I have heard rival contentions and gone through the facts and circumstances of the case. In view of the request of assessee that the assessee's condonation petition is pending before the CCIT u/s. 119 of the Act. I set aside the order of the Id. CIT(A) and remand the matter back to his file. The Id. CIT(A) will wait till the decision of the Chief Commissioner of Income Tax, Madurai to the application filed by the assessee for condonation of delay

in filing the return of income for the relevant assessment year 2018-2019 u/s.119 of the Act. The Id. CIT(A) will decide the issue after the decision of the Chief Commissioner of Income Tax, Madurai. Hence, the appeal of the assessee is allowed for statistical purpose in term of the above.

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

Order pronounced in the open court on 1st January, 2024 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated:- 01.01.2024

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.