

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

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

आयकर अपील सं./ITA No.: **1519/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2019-20

**The Namakkal Agricultural  
Producers Co-Operative  
Marketing Society Limited,**  
No.69, Thiruchengodu Road,  
Namakkal 637 001.

**Vs. The Income Tax Officer,**  
Ward 1  
Namakkal.

**[PAN AACAT 7744B]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

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

: None  
: Shri AR.V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 19.02.2024

घोषणा की तारीख /Date of Pronouncement

: 19.02.2024

**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/S/250/2023-24/1053646031(1) dated 09.06.2023. 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 Asst. Director of Income

Tax, Central Processing Center (CPC), Bengaluru for the assessment year 2019-20 vide order dated 06.05.2020.

2. At the outset, it is noticed that this appeal is time barred by 133 days and going through the facts of the case and also the short delay of 133 days, I'm inclined to condone the delay which was not objected to, by the Id. Senior DR. Hence, I condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the disallowance made by the AO towards claim of deduction u/s.80P of the Act for the reason that return of income filed by assessee was belated return and not filed within the due date prescribed u/s.139(1) of the Act.

4. At the time of hearing, none is present from assessee's side, despite the fact I have taken up this appeal for hearing because the issue is very simple. Heard Id.Senior DR and gone through the facts of the case. I noted that the assessee made claim of deduction u/s.80P of the Act for an amount of Rs.47,16,676/-. As the assessee society has not filed return of income within the due date prescribed u/s.139(1) of the Act, the AO i.e., CPC, Bangalore

processed the return u/s.143(1) of the Act, dated 06.05.2020 vide Document Identification No.CPC/1920/A5/1975573743 for the assessment year 2019-20 and denied deduction u/s.80P of the Act thereby resulting in an outstanding demand of Rs.17,58,040/- on the ground that the return of income was not filed within the time specified u/s.139(1) of the Act. The assessee before CIT(A) and even before Tribunal claimed that it had filed a petition for condonation of delay in filing the return of income for the assessment year 2019-20 before the Central Board of Direct Taxes (CBDT), New Delhi vide their petition dated 20.05.2020, which is pending for decision before the CBDT. The proof of filing of said petition was filed before the CIT(A). Even, this ground is raised before Tribunal. Hence, to await the decision of CBDT on the petition u/s.119(2)(b) of the Act, the matter is restored back to the file of the AO and the orders of the lower authorities i.e, the CIT(A) and the intimation u/s.143(1) of the Act by the CPC, Bengaluru are hereby quashed. The AO is directed to re-decide the issue, only limited to this issue of delay in filing of return of income u/s.139(1) of the Act, after awaiting the decision of CBDT on the above petition dated 20.05.2020. In term of the above, matter restored back to the file of the AO.

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

Order pronounced in the open court at the time of hearing on 19<sup>th</sup> February, 2024 at Chennai.

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

चेन्नई/Chennai,  
दिनांक/Dated, the 19<sup>th</sup> February, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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