

आयकर अपीलीय अधिकरण, बी 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./I.T.A. No.1631/CHNY/2023
निर्धारण वर्ष/Assessment year : 2021-2022.

S279 Koottathupatti PACS
Limited,
Kottathupatti Post,
Salem Dist 636 139

Vs. The Income Tax Officer,
Ward 1(6)
Salem.

[PAN AAEAS 8776Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri. S. Sridhar, Advocate
: Shri D. Hema Bhupal, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.02.2024

घोषणा की तारीख /Date of Pronouncement

: 22.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals)-5, Office of the Commissioner of Income Tax (Appeal), Mumbai in Order No.ITBA/APL/S/250/2023-24/1057658445 (1), dated 03.11.2023. The assessment was framed by the DDIT/ADIT, CPC, Bengaluru for the

assessment year 2021-2022, u/s. 143(1) of the Income Tax Act, 1961 (in short 'the Act') vide order dated 02.11.2022.

2. The only issue in this appeal of the assessee is with regard to the order of the Id. CIT(A) not considering the submissions of the assessee that assessee has filled condonation petition before the Central Board of Direct Taxes and awaiting outcome of condonation petition filed u/s.119 (2)(b) of the Act before the CBDT on 25.04.2022. For this, assessee has raised the following grounds:-

'2) The Learned First Appellate Authority erred in not considering the submissions filed by the Appellant including the mention of pendency of condonation petition filed before the Central Board of Direct Taxes in proper perspective.

3) The Learned First Appellate Authority erred in not considering that the CPC, Bengaluru erred in hurriedly processing the Return of Income by Intimation under Section 143(1) of the Act dated 02/11/2022 without waiting for the outcome of the Delay Condonation Petition filed under Section 119(2)(b) of the Act before the CBDT on 25/04/2022, despite mentioning this fact in the Impugned Order".

3. I have heard the rival contention and perused the material on record. I noticed that assessee has filed its return of income on 26.03.2022 declaring Nil income. The return of income was processed u/s.143(1) of the Act by Centralised Processing Centre on 02.11.2022 by making following additions/disallowances:-

1. *Disallowance of deduction of Rs.19,74,015/- u/s.80P(2) (a)(i)*
2. *Disallowance of deduction of Rs.50,000/- u/s.80P(2) (c)(ii)*
3. *Disallowance of deduction of Rs.13,71,750/- u/s.80P(2) (d)*

The reason for disallowances was that the return was filed belatedly on 26.03.2022 beyond the extended due date i.e 15.03.2022. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

4. The Id. CIT(A) also not considered the plea of the assessee. Aggrieved, assessee preferred an appeal before the Tribunal.

5. I have heard the rival contention and perused the material on record. I noticed that assessee filed petition u/s.119 (2)(b) of the Act for condonation of delay in filing of return of income filed belatedly just by eleven days and the condonation petition is pending with CBDT. As condonation petition is pending with CBDT, I set aside the orders passed by the Centralised Processing Centre u/s.143(1) of the Act and also the Id. CIT(A) and remand the matter back to the file of the Id. Assessing Officer who will wait for the decision of CBDT on condonation petition filed by the assessee u/s.119(2)(b) of the Act on 25.04.2022 and thereafter will decide the issue in view of the decision given by the CBDT.

In terms of the above, the appeal of the assessee is allowed for statistical purpose.

6. In the result, the appeal of the assessee in ITA No.1631/Chny/2023 for assessment year 2021-2022 is allowed for statistical purpose.

Order pronounced in the open court at the time of hearing on 22nd day of February, 2024, at Chennai.

Sd/-
(महावीरसिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated:22.02.2024.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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