

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकरअपील सं./ ITA No.269/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2021-22)**

No.779 Veeraraganur Primary
Agricultural Co-Operative Credit
Society,
Veeragannur Post,
Gangavalli, Attur Taluk,
Salem.

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

[PAN: AAAAN 3985A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. P. Sajit Kumar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 17.04.2024

घोषणा की तारीख /Date of Pronouncement

: 17.04.2024

आदेश / O R D E R

MANU KUMAR GIRI (Judicial Member)

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/250/2023-24/1058107266 (1), dated 21.11.2023. 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 30.09.2022..

2. The grounds of appeal raised by the assessee are reproduced as under:

"1) The order of the learned CIT(A) is bad and erroneous in law.

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 without waiting for the outcome of the Delay Condonation Petition filed under Section 119(2)(b) before the CBDT, despite mentioning it in the Impugned Order".

3. Brief facts of the case are that the Assessee filed its return of income on 28.03.2022 declaring total income at Rs. NIL. The said return dated 28.03.2022 was processed u/s 143(1) on 30.09.2022 determining total income at Rs.7,49,430/-. In the said intimation order u/s 143(1) dated 30.09.2022 the CPC Bengaluru made disallowances of deduction u/s 80P(2)(c)(ii) and u/s 80P(2)(d) on the ground that the return was filed belatedly beyond the the extended due date of 15.03.2022.

4. The assessee carried the matter in appeal before the Id. CIT(A). Since the assessee has not filed the return of income within the extended due date of 15.03.2022 accordingly, the Id. CIT(A) confirmed the assessment and dismissed the ground raised by the assessee. On being aggrieved, the assessee is in appeal before the Tribunal.

5. 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.

6. We have heard the rival submissions, perused the materials available on record and gone through paper book, the orders of authorities below. In this case, since the return of income for the assessment year 2021-22 was not filed within the extended due date of 15.03.2022, 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.

7. 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.

8. In the result, the appeal filed by the assessee in ITA 269/CHNY/2024 for assessment year 2021-2022 is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 17th April, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :17-04-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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