

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1498/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

M/s.PG 1 Nochikuttai Primary – Agricultural Co-op. Bank Ltd., No.489, Punjai Puliampatti Road, Nochikuttai, Sathyamangalam, Erode-638 459.	v.	The Income Tax Officer, Ward-2(5), Erode.
[PAN: AAAAP 1806 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri R. Shriram Adhethyen, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri D. Hema Bhupal, JCIT
सुनवाईकीतारीख/Date of Hearing	:	01.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	10.05.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee Agricultural Co-op. Bank against the order of the Learned Commissioner of Income Tax (Appeal)/Addl/JCIT(A)-4, Delhi, dated 20.11.2023, for the Assessment Year (hereinafter 'AY') 2018-19.

2. The main grievance of the assessee is against action of the Ld.CIT(A) denying deduction claimed by it u/s.80(P)(2)(a)(i) of the



**ITA No.1498/Chny/2023 for AY 2018-19
M/s.PG 1 Nochikuttai Primary Agricultural Co-op. Bank Ltd.**

:: 2 ::

Income Tax Act, 1961 (hereinafter 'the Act'). The brief facts of the case are that the assessee is a Primary Agricultural Co-Operative Credit Society registered under the Tamil Nadu Cooperative Societies Act, 1983, and engaged in the business of providing credit facilities to Members who are farmers, involved in agricultural activities like farming, cultivation, etc. According to the assessee, profits arising out of such activities were eligible for deduction u/s.80(P)(2)(a)(i) of the Act. According to the assessee, it filed its return of income for AY 2018-19 on 31.08.2018 admitting 'NIL' income after claiming deduction u/s.80(P)(2) of the Act. According to the assessee, the CPC processed the return u/s.143(1)(a) of the Act, dated 15.02.2019, wherein, to the surprise of the assessee, the claim of deduction u/s.80(P)(2)(a)(i) of the Act, was not allowed instead Rs.50,000/- was allowed u/s.80(P)(2)(c)(ii) of the Act and thus, assessee's claim of deduction for the balance amount of Rs.11,69,030/- was not allowed.

3. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to dismiss the appeal.

4. Aggrieved by the action of the Ld.CIT(A), the assessee is in appeal before us.

5. We have heard both the parties and perused the materials available on record. We note that the assessee is a Primary Agricultural Co-



ITA No.1498/Chny/2023 for AY 2018-19
M/s.PG 1 Nochikuttai Primary Agricultural Co-op. Bank Ltd.

:: 3 ::

operative Credit Society, registered under the Tamil Nadu Cooperative Societies Act, 1983 and engaged in the business of providing credit facilities to Members who were farmers, involved in agricultural activities like farming, cultivation, etc. According to the assessee, it was eligible for deduction u/s.80(P)(2) of the Act. However, while filing the return of income electronically by mistake/oversight, the assessee claimed deduction of Rs.11,69,030/- u/s.80(P)(2)(c)(ii) of the Act instead of u/s.80(P)(2)(a)(i) of the Act. The CPC while processing the return of income u/s.143(1) of the Act, was pleased to allow Rs.50,000/- as against the claim of the assessee for deduction of Rs.11,69,030/-. According to the assessee, it was enjoying deduction u/s.80(P)(2)(a)(i) of the Act in the earlier years, being Primary Agricultural Co-Operative Credit Society engaged in the business of providing credit facilities to Member who were farmers engaged in the business of agricultural activities. The Ld.AR of assessee submitted that assessee is eligible / entitled for deduction, then, the same is allowable as held by the Hon'ble Supreme Court in the case of M/s.The Mavilayi Services Cooperative Bank Ltd. & Ors. v. CIT, Calicut & Anr. with Civil Appeal No.8315 of 2019 dated 12.01.2021. Therefore, according to the assessee, an inadvertent mistake due to oversight while entering the column in the ITR Form should not be a fetter against the entitlement for deduction u/s.80(P)(2)(a)(i) of the Act. Therefore, the assessee pleaded that the deduction be allowed u/s.80(P)(2)(a)(i) of the



**ITA No.1498/Chny/2023 for AY 2018-19
M/s.PG 1 Nochikuttai Primary Agricultural Co-op. Bank Ltd.**

:: 4 ::

Act, and for such a proposition cited rule of consistency. We find force in the submission of the Ld.AR and note that by an inadvertent *bona fide* mistake of the assessee while entering ITR Form for claiming deduction u/s.80(P)(2)(a)(i) of the Act, instead filled up in the column u/s.80(P)(2)(c)(ii) of the Act, which mistake should not be the reason for denying the claim of the assessee, if it is otherwise entitled to such a claim in law. In this context, we take note of the Hon'ble Supreme Court decision in the case of United Bank of India v. Naresh Kumar AIR 1997 SC 3, wherein, it was observed by their Lordships "*as far as possible, a substantive right should not be defeated on account of a procedural irregularity which is curable*" and in the case of Associated Journals Ltd. v. Mysore Paper Mills Ltd., reported in [2006] 69 SCL 311 (SC), it was observed by the Hon'ble Supreme Court -

"... Rules of procedure cannot be a tool to circumvent the justice. In fact, the Rules are laid to help for speedy justice ... Technical defects in petition are curable....."

6. In the state of Punjab v. Shamlal Murari AIR 1976 SC 1177 = (1976) 1 SCC 719, wherein, ... the Hon'ble Supreme Court observed that "*procedural law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the hand-mad and not the mistress, a lubricant, not a resistant in the administration of justice*".



**ITA No.1498/Chny/2023 for AY 2018-19
M/s.PG 1 Nochikuttai Primary Agricultural Co-op. Bank Ltd.**

:: 5 ::

7. In the light of the aforesaid judicial precedents cited (supra) for the ends of the justice and fair play, the assessee's claim for deduction u/s.80(P)(2)(a)(i) of the Act need to be allowed, if assessee is eligible otherwise in accordance to law; and due to inadvertent mistake while entering the ITR form, it should not be denied/deprived to the assessee.

8. In the light of the aforesaid discussion, we set aside the impugned order of the Ld.CIT(A) and restore the issue back to the file of the AO for *de novo* adjudication of the claim of the assessee made u/s.80(P)(2)(a)(i) of the Act, to the tune of Rs.11,69,030/-, and the AO after giving proper opportunity to the assessee, to pass order in accordance to law.

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

Order pronounced on the 10th day of May, 2024, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 10th May, 2024.

TLN, Sr.PS



ITA No.1498/Chny/2023 for AY 2018-19
M/s.PG 1 Nochikuttai Primary Agricultural Co-op. Bank Ltd.

:: 6 ::

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF