

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **195/CHNY/2024**

निर्धारण वर्ष/Assessment Year: 2019-20

**M/s. S432 Kudimenahalli
Primary Agricultural Co-
Operative Credit Society,**
Deverahalli Village,
Pochampalli,
Krishnagiri – 635 123.

The Income Tax Officer,
Vs. Ward 1,
Krishnagiri.

PAN: AAFAS 2288A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 04.06.2024

घोषणा की तारीख/Date of Pronouncement

: 04.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

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/250/2022-23/1048826939 (1) dated 17.01.2023. The return of income for the assessment year 2019-20 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 vide order dated 21.01.2021.

2. At the outset, it is noticed that this appeal is barred by limitation by 311 days. The facts are that the order of CIT(A) is dated 17.01.2023 and assessee has per Form 36 claimed to have received the order of CIT(A)-NFAC on 17.01.2023 through e-mail. The appeal should have been filed on or before 18.03.2023 but actually it was filed on 24.01.2024, thereby there is a delay of 311 days. The Id.counsel for the assessee before us now stated that this is transitional period from manual regime to internet regime and there were poor internet facilities in the remote villages of Tamil Nadu and accordingly, there was a delay. The assessee submitted affidavit and in paras 5 & 6 of the affidavit, it stated the reasons which are as under:-

“5. I state and submit that the CIT(A) had sent the notices from 30.07.2021 to 01.03.2022 through mail. Since we are carrying out our business activities in a remote locality with poor internet facilities, we are unwitt of such notices received through mail. We have responded to those notice which came to our knowledge within the time prescribed. It is only now due to adjustment in the refund for the AY 2023-24 received from CPC, Income Tax Department, 18.12.2023, we noticed the order passed by CIT(A) on 17.01.2023 and immediately took steps to file an appeal.

6. *Thereafter, we approached our Chartered Accountant who guided us for further proceedings. As advised by the Chartered Accountant, the present appeal is being filed with a delay of 311 days.”*

When these reasons were confronted to Id.Senior DR, he could not controvert the above stated facts but he opposed condonation of delay because there is a delay of 311 days.

2.1 After hearing rival contentions and going through the facts that this is a transitional period from manual regime to Information Technology for service of notice and for filing of appeals and in view of the reasons stated in affidavit, we are convinced that there is sufficient and reasonable cause for not filing of appeal on time. Hence, we condone the delay and admit the appeal.

3. As regards to merits of the case, the only issue in this appeal of assessee is as regards to disallowance of claim of deduction u/s.80P(2)(a) of the Act by AO and confirmed by CIT(A)-NFAC amounting to Rs.9,14,333/-. For this, assessee has raised various grounds and also raised the issue of principles of natural justice in not providing opportunity of being heard properly.

4. The Id.counsel for the assessee now before us stated the fact that only reason for disallowance of claim of deduction u/s.80P(2)(a)

of the Act is that the return of income filed by assessee is not in time. It was contended that the assessee society earned interest income for the loan provided to the members of the society and also income from retailing of fertilizers to the members of the society, trade margin from distribution of commodities under Public Distribution System in accordance with mandate of Government. The assessee filed its return of income for the relevant assessment year 2019-20 declaring an income of Rs.9,14,333/- on 30.11.2020 by claiming deduction u/s.80P(2)(a) of the Act. The return of income was processed stating that the return contains error/incorrect claims/inconsistencies which attracts adjustments and notice u/s.143(1)(a) of the Act dated 10.12.2020. The assessee filed the response. However, the Assistant Director of Income Tax, CPC rejected the response filed and disallowed the amount claimed as deduction u/s.80P(2)(a) of the Act. The ADIT, CPC processed the return of income and issued intimation u/s.143(1) of the Act on 21.01.2021 making addition of Rs.9,14,333/- and raised a demand of Rs.4,09,774/-. Further, the ADIT, CPC stated that the reason for disallowance of claim of deduction u/s.80P(2)(a) of the Act is that return of income was not filed within the due date as prescribed u/s.139(1) of the Act. Now, the assessee produced a copy of petition filed u/s.119(2)(b) of the Act for the relevant assessment

year 2019-20 to the CBDT for condonation of delay in filing of return of income. The petition is dated 31.05.2024. The Id.counsel only requested that let the CBDT decide the petition, in the mean time matter can be set aside to the file of the AO so that he can follow the decision of CBDT. He further stated that apart from the delay in filing of return of income, there is no other reason for denying the deduction as is evident from the assessment order.

5. When this was confronted to Id. Senior DR, he has not objected for setting aside the matter to the file of the AO.

6. After hearing both the sides and going through the facts, we are of the view that the petition u/s.119(2)(b) of the Act for the relevant assessment year 2019-20 is pending with CBDT for adjudication and condonation. Since the petition is pending for condonation of delay in filing return of income, in case the CBDT condones the delay, the AO has to allow the claim of deduction u/s.80P(2)(a) of the Act. Hence, we set aside the order of lower authorities and remand the matter back to the file of AO to re-decide after the decision of CBDT on condonation petition. Accordingly, the appeal of the assessee is allowed for statistical purposes.

7. 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 4th June, 2024 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 4th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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