

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH : COCHIN**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.175/Coch/2023
Assessment Year: 2018-19

Chemanchery Rural Co-operative Housing Society Ltd. No.D 1941, Ulliyeri Road Koyilandy Kerala 673 305  <b>PAN NO : AACAC6542N</b>	<b>Vs.</b>	ITO Ward-2(2) Kozhikode
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	N O N E
<b>Respondent by</b>	:	Smt. Jamuna Devi, Sr. DR

<b>Date of Hearing</b>	:	14.05.2024
<b>Date of Pronouncement</b>	:	14.05.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against the order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short "The Act") for the assessment year 2018-19 dated 12.1.2023. The assessee has raised following grounds of appeal:

1. *"The order of the learned Commissioner of Income Tax (Appeals) National Faceless Appeal center dated 12-01-2023 for the assessment year 2018-19 dismissing the appeal is against the order u/s. 154 is against law and contrary to the facts and circumstances of the case.*
2. *The learned Commissioner of Income Tax (Appeals) NFAC went wrong in affirming the order of the Deputy Commissioner of Income Tax u/s. 154 dated 26-11-2019.*
3. *Your appellant is entitled for deduction u/s. 80P considering the CBDT Circular F No. 225/15/2019/ITA.11, dated 27-02-2019.*

4. *Your appellant accounts are to be audited under the Cooperative Societies Act the extension is applicable to your appellant*
5. *Deduction under section 80P should be allowed to your appellant.*
6. *For the above and other grounds that may be submitted at the time of hearing it is prayed to the Honorable Tribunal to allow the appeal.”*

*Total tax effect Rs.10,68,230/-*

**2.** Facts of the issue are that the assessee, a CO-operative Society filed its return of income for assessment year 2018-19 on 11.10.2018 making deduction claim of Rs.10,68,230/- u/s 80P of the Act. The return was processed u/s 143(1) of the Act, rejecting the claim of deduction u/s 80P of the Act for the reason that return of income for the year under consideration was not filed in time. The assessee filed rectification request u/s 154 of the Act on 2.10.2019 which was not accepted vide 154 orders dated 26.11.2019. Against the order u/s 154, the assessee went in appeal before NFAC. The NFAC denied the deduction claimed by assessee u/s 80P of the Act on the reason that the return filed by the assessee was belated as the assessee was required to file the return on or before 15.9.2018 as per CBDT Guidelines, but the assessee has filed the return on 11.10.2018, which is belated return. Against this assessee is in appeal before us.

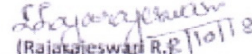
**4.** None appeared on behalf of the assessee at the time of hearing before us. Hence, we heard the departmental representative. It is brought to our notice by the ld. D.R. that originally due date of filing return of income was 30.9.2018. Later, it was extended by CBDT up to 15.10.2018. Once again it was extended up to 31.10.2018 and she drew our attention to the CBDT Circular No.358/2018 dated 8.10.2018, which reads as follows:

F.No. 225/358/2018/ITA.II  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

North-Block, ITA.II Division  
New Delhi, the 8<sup>th</sup> of October, 2018

**Order under Section 119 of the Income-tax Act, 1961**

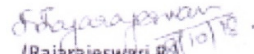
On consideration of representations from various stakeholders for further extension of due date being 30<sup>th</sup> September, 2018 for purpose of filing return of income as well as various reports of audit pertaining to Assessment Year 2018-2019 for assessee covered under clause (a) of *Explanation 2* of section 139(1) of the Income-tax Act, 1961 (Act), the Board, in partial modification of its order dated 24.09.2018 in file of even number, hereby, further extends the due date for filing of return of income and reports of audit pertaining to Assessment Year 2018-2019 from 15<sup>th</sup> October, 2018 to **31<sup>st</sup> October, 2018**. However, as specified in earlier order dated 24.09.2018, assessee filing their return of income within the extended due date shall be liable for levy of interest as per provisions of section 234A of the Act.

  
(Rajarajeswari R.) 10/10/18

Under Secretary to Government of India

**Copy to:-**

1. PS to F.M./OSD to FM/PS to MoS(R)/OSD to MoS(R)
2. PPS to Secretary (Revenue)
3. Chairman (CBDT), All Members, Central Board of Direct Taxes
4. All PEs/CCs/IT/CCs/IT/Pr. Dst/IT/DsGIT
5. All Joint Secretaries/CSIT, CBDT
6. Directors/Deputy Secretaries/Under Secretaries of Central Board of Direct Taxes
7. ADG[System]-4 with request to place the order on official website
8. Addl. CIT, Data base Cell for placing the order on insofficers website
9. The Institute of Chartered Accountants of India, IP Estate, New Delhi-110003
10. CIT (M&TP), CBDT with request to issue Press Release & for placing on Twitter handle of the department

  
(Rajarajeswari R.) 10/10/18

Under Secretary to Government of India

5. We have carefully gone through the above circular. Admittedly, this circular is binding on the department as the assessee has filed the return of income on 11.10.2018. The return filed by the assessee is a valid return and it is not a belated return as there was extension of time up to 15.10.2018, and thereafter up to 31.10.2018. According to the claim of assessee u/s 80P of the Act cannot be denied on this reason. Accordingly, the issue is remitted to the file of ld. AO to consider the same afresh in accordance with law.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 14<sup>th</sup> May, 2024

**Sd/-**  
**(Soundararajan K.)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 14<sup>th</sup> May, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Cochin.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**