

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.52/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2019-20)

The Telangana Non-Gazetted Officers Mutually Aided Coop Housing Society Ltd PAN:AACAT4191J (Appellant)	Vs.	Income Tax Officer Ward 5(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	Advocate Ravindra Chenji	
राजस्व द्वारा/Revenue by::	Smt. Sheetal Sarin, DR	
सुनवाई की तारीख/Date of hearing:	16/07/2024	
घोषणा की तारीख/Pronouncement:	16/07/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 30/11/2023 of the learned CIT (A)-/Addl./JCIT()-9 Mumbai, relating to A.Y.2019-20.

1. The brief facts of the case are that the assessee is a mutually aided housing society filed its return of income for the A.Y 2019-20 on 20.09.2019 declaring Nil income after claiming

deduction u/s 80P(2)(f) of the I.T. Act, 1961. The Assessing Officer CPC while processing the return of income u/s 143(1) did not allow deduction u/s 80P of the act and assessed the total income at Rs.87,77,609/-.

3. The assessee carried the matter in appeal before the first appellate authority and such appeal file has been filed on 14.1.2023 with a delay of 743 days. The assessee has explained the reasons for the delay in filing of the appeal and as per the appellant, the delay is partly covered by the Covid Pandemic and partly covered by non-Covid and if we exclude the delay covered by covid pandemic part, the remaining delay in filing of the appeal is only 230 days. The reasons for delay in filing of the appeal is due to covid pandemic and no administrative staff was available to deal with the matters of the appellant society and in the process the order passed by the Assessing Officer, denying deduction u/s 80P of the I.T. Act, 1961 was un-noticed. Immediately after came to know that the Assessing Officer passed the order, steps have been taken to file the appeal which caused a delay of 230 days. The delay is neither intentional nor wanton of any undue benefit, therefore, requested to condone the delay. The learned CIT (A) after considering the submissions of the assessee and also taking note of certain judicial precedents rejected the reasons given by the assessee for non-filing of the appeal in time and dismissed the appeal unadmitted.

4. Aggrieved by such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the reasons for delay in filing of the appeal has been explained to the learned CIT (A). As per the petition filed by the assessee, the order passed by the Assessing Officer was received during covid pandemic period and that, at the time there was no administrative staff was available to deal with the day-to-day affairs of the society. The appellant came to know about the order passed by the Assessing Officer only in January, 2023 and thereafter, it filed an appeal immediately. The reasons given by the appellant are bonafide and comes under reasonable cause. However, the learned CIT (A) rejected the explanation furnished by the assessee and dismissed the appeal as non-est. Therefore, submitted that a direction may be given to the learned CIT (A) to condone the delay and the matter may be set aside to the file of the learned CIT (A) to decide the issue on merit.

6. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that even after exclusion of the delay covered by covid period, still there is a delay of 230 days. The assessee has not offered any bonafide and acceptable reasons. The reasons given by the assessee that no administrative staff was available to look into the affairs of the society is vague and does not come under reasonable cause. The learned CIT (A)

after considering the relevant facts has rightly dismissed the appeal and therefore, the order should be upheld.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. We find that the effective delay in filing of the appeal is reduced to 230 days after excluding the delay covered under covid period. In fact, the learned CIT (A) excluded the delay covered under Covid and has considered the delay after covid period which stands at 230 days. Admittedly, the Assessing Officer passed the order u/s 143(1) of the Act on 2.1.2020 which is during mid pandemic. It is also a known fact that during the pandemic period normal life of a citizen was disturbed, be that may be an individual or an institution Therefore, when a communication was received during the pandemic period, many have missed the attention due to the ongoing pandemic situation. Therefore, when the appellant has explained that it has received an order during mid pandemic and because of this, the order passed by the Assessing Officer missed the attention of the management appears to be bonafide and reasonable. Further, no assessee can get any benefit by not filing the appeal, rather by not filing the appeal, the assessee puts themselves in adverse position. Therefore, various Courts including the Hon'ble Supreme Court in clear term held that when it comes to condonation of delay, a larger view has to be taken considering the reasons given by the appellant. Since the appellant has explained the reasons

for delay in filing the appeal, in our considered opinion, the reasons given by the appellant comes under reasonable cause for condonation of the delay. Thus, we condone the delay in filing the appeal before the first appellate authority and direct the learned CIT (A) to admit the appeal filed by the assessee for adjudication and decide the issue on merits after providing reasonable opportunity of hearing to the assessee.

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

Order pronounced in the Open Court on 16th July, 2024.

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 16th July, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	The TNGO Mutually Aided Coop. Housing Society Ltd, Plot No.633, Phase 1, TNGOs Colony, Near ALAI BALAI Chowrasta, Gachibowli, Hyderabad 500032
2	Income Tax Officer Ward 5(1) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	CIT/Addl/JCIT(A) – 9 Mumbai
4	Pr. CIT – Mumbai and Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order