

आयकर अपीलीय अधिकरण, "ए", न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JM AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1276 /CHNY/2024
(निर्धारणवर्ष / Assessment Year: 2019-2020)

E2594 Vadakailasam Primary Agricultural
Co-Op Credit Society Limited,
No.1, Kamarajar Nagar,
EB Colony,
Panruti,
Cuddalore Dist 607 106.

The Income Tax Officer,
Vs. Ward 4,
Cuddalore.

PAN: AAAAE 4465E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. V. Meenakshi Sundar, C.A.,
प्रत्यर्थी की ओर से/Respondent by : Shri. ARV Srinivasan, IRS, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 16.07.2024

घोषणा की तारीख/Date of Pronouncement : 26.07.2024

आदेश /O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld.
Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] dated 20.03.2024
for Assessment Year 2019-20.

2. The Assessee has raised the following grounds of appeal :-

1	<i>The Learned Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in confirming action of CPC Bengaluru by holding that claim made by the Appellant was "Incorrect claim" as per Sec. 143(1) of the Act.</i>	0
2	<i>The Learned Commissioner (Appeals), National Faceless Appeal Centre, Delhi erred in upholding action of the CPC Bengaluru in making adjustment to the returned income of the Appellant by way of an intimation u/s.143(1) and in denying the benefit of Sec.80P of the Act of Rs. 31,69,049/- to the Appellant by failing to appreciate that this was not a prima facie adjustment permissible u/s.143(1)(a) of the Act.</i>	1359888
3	<i>The Order of the Learned Commissioner (Appeals), National Faceless Appeal Centre, Delhi is bad in law in as much it upheld the Intimation issued by CPC under section 143(1)(a) of the Act, which then was not empowered to make such adjustments, failing to appreciate that the enabling provisions allowing specified adjustment for Sec. 80P u/s 143(1)(a) has been brought on statute only with effect from 01.04.2021</i>	0
4	<i>The Learned CIT(A) failed to appreciate that the Condonation petition filed by the appellant with the Central Board of Direct Taxes (CBDT) as per the advice of the Principal Chief Commissioner of Income Tax (PCIT) was</i>	0

	<i>pending consideration of the Board and the CIT(A) ought to have waited for the outcome of the petition, as the entire issue involved in the case revolves around the same.</i>	
5	<i>The appellant craves the indulgence of the Hon'ble ITAT to furnish additional grounds/additional evidence as well as alter or amend any of the grounds to support the case of the appellant</i>	
	<i>Total tax effect</i>	<i>Rs.13,59,888/-</i>

3. The assessee is Primary Agricultural Cooperative credit Society, extending credit facility exclusively to the members and filed Nil return of income for A.Y. 2019-20 on 30.09.2020 after claiming deduction under Section 80P of the Income Tax Act, 1961. The CPC, Bangalore while processing the said return, disallowed the entire claim of deduction of Rs.31,69,049/- claimed under Section 80P of the Act in the intimation under Section 143(1) of the Act on 24.12.2020 on the ground that the assessee's claim is not admissible as the return of income was filed belatedly on account of audit was not completed for the FY till the due date of filing return.

4. Being aggrieved by the intimation under Section 143(1) of the Act dated 23.12.2020, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee. On being aggrieved, the assessee is in appeal before the Tribunal.

5. The Ld. AR submitted that the assessee filed return of income belatedly but the intimation was under Section 143(1)(a) of the Act wherein the adjustment in respect of Clause (b) of the said Section came w.e.f. 01.04.2021 and, therefore, deduction claimed under Section 80P of the Act should have been granted and not merely be rejected on the ground of late filing of the return. The Ld. AR further submitted that the Assessing Officer had no power under Section 143(1)(a)/(b) of the Act for A.Y.2019-20 as the Section was introduced/effective from 01.04.2021. The Ld. AR further stated that assessee had filed a petition under section 119(2)(b) of the Act for condonation of delay in filing the return of income before the Central Board of Direct Taxes ('CBDT' in short), which is still pending disposal on date. The Id.AR also cited coordinate bench order in the case of M/s K864 Murali Chennampatti Primary Agricultural Co-op Credit Society Vs The Income Tax Officer (ITA Nos.516 & 517/CHNY/2024) on the similar issue. We have perused the order of coordinate bench which held as under:

'6. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the disallowance of claim of deduction u/s.80P of the Act amounting to Rs.27,90,635/- is made only for the reason that the return of income was filed beyond the due date as prescribed u/s.139(1) of the Act. The relevant assessment year involved is 2019-20 and the due date for filing of return is 30.09.2019, whereas assessee actually filed the return of income on 29.07.2020. The extended due date of filing of return as per Board Circular is 31.10.2019. Even otherwise there is a delay in filing of return in term of section 139(1) of the Act. Therefore, the CPC, Bengaluru while issuing intimation u/s.139(1) of the Act and processing of return of income disallowed the claim of deduction u/s.80P of the Act amounting to Rs.27,90,640/-. Aggrieved, assessee preferred appeal before CIT(A)..

6.1 The CIT(A) also confirmed the action of the AO by observing in paras 6.6 to 6.9 as under:-

“6.6 The provisions laid out in Section 80AC(ii), which came into effect on April 1, 2018, leave no room for ambiguity. They emphatically establish that any deduction sought under Part C of Chapter VIA will be deemed admissible exclusively if the income tax return for that particular case is filed within the prescribed due date. Consequently, no claims under any of the provisions in Part C of Chapter VIA will be entertained in the instance of a belated return.

6.7 The date of income tax return submission is conspicuously evident on the return document itself. Upon a thorough review, it becomes abundantly clear whether the return conforms to the stipulated statutory time limit or falls into the category of belated submissions. This process is inherently mechanical and falls squarely within the purview of Section 143(1)(a)(i) of the Act. The Central Processing Centre (CPC) is well-equipped to efficiently carry out this task.

6.8 In the present case, the assessment year in question is AY 2019-20, and the appellant filed the income tax return on July 29, 2020, which is beyond the due date of filing the return, i.e., September 30, 2019, as per Section 139(1) of the Act and also beyond the extended deadline of October 31, 2019, allowed for that relevant year. In accordance with the provisions of Section 80AC(i) of the Act, which apply to AYs 2018-19 and onwards, the appellant is clearly ineligible to claim the exemption under section 80P of the Act.

6.9 Hence, there is no flaw in the AO's decision to disallow the appellant's deduction claim under section 80P while processing the return under section 143(1) of the Act. Consequently, all the raised appeal grounds are rejected.”

Aggrieved, assessee is in appeal before us.

7. Before us, the Id.AR for the assessee Ms. A. Vijayalakshmi, FCA pointed out that in the provisions of section 80AC of the Act, the amendment is brought out from 01.04.2018 for not allowing the claiming of deduction while assessment is being framed in view of provisions of section 80C of the Act under chapter VIA i.e., deduction in respect of certain payments. The relevant provisions of section 80AC reads as under:-

“80AC. Deduction not to be allowed unless return furnished.—

Where in computing the total income of an assessee of the previous year relevant to the assessment year commencing on or after –

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;

(ii) the 1st day of April, 2018 no such deduction is admissible under any provision of this chapter under the heading “C-Deductions in respect of certain incomes”,

No such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.”

This amendment is brought out by the Finance Act, 2018 w.e.f. 01.04.2018 and will apply for and from assessment year 2018-19. But the Id.AR for the assessee drew our attention to the provisions of section 143(1) clause (a) sub-clause (v) of the Act, wherein processing of return is to be carried out and disallowance of claim of deduction under Chapter VIA has to be made but the disallowance is to be made from 01.04.2021 as the amendment is carried out and particular deduction has to be disallowed as inserted by Finance Act, 2021. The relevant clause 143(1)(a)(5) reads as under:-

Assessment.—

143. [(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

(a) the total income or loss shall be computed after making the following adjustments, namely:

.....

.....

(v) disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VI-A under the heading “C-Deductions in respect of certain incomes”, if the return is furnished beyond the due date specified under the sub-section (1) of section 139; or

The Id.AR stated that once the disallowance is to be restored u/s.143(1) of the Act, for this Chapter VIA and particularly section 80P that can be done for and from 2021-22 onwards. The relevant assessment year involved is 2019-20 and hence, no disallowance can be made while acting u/s.143(1) of the Act.

8. The Id. Senior DR could not controvert the above fact situation.

9. Having heard rival contentions and going through the facts of the case, we noted that the provisions of section 143(1) of the Act as reproduced above, are very clear that the particular provision of deduction in respect of certain incomes under Chapter VIA are brought in the ambit of disallowance while processing return u/s.143(1) is with effect from 01.04.2021 and i.e., from assessment year 2021-22 by the Finance Act, 2021. Prior to that, no disallowance u/s.143(1) of the Act can be made under this head. The present appeal relates to assessment year 2019-20 and hence, the amended provisions of section 143(1) of the Act, which is effective from 01.04.2021 i.e., for and from AY 2021-2022 will not apply. In view of the above, we delete the disallowance and allow the appeal of assessee.

10. In the result, both the appeals filed by the assessee are allowed’.

Therefore, respectfully following the coordinate bench judgment referred supra, we delete the disallowance and allow the appeal of the assessee.

6. In the result, appeals filed by the assessee is allowed.

Order pronounced in the open court on 26th July, 2024 at Chennai.

Sd/-

एस.आर. रघुनाथा
(S.R. RAGHUNATHA)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 26th July, 2024

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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