

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.2588/M/2023
Assessment Year: 2014-15**

M/s. Clover Regency CHS Ltd. Clover Regency Tejpalwadi, Ghatkopar East. PAN: AABAC5943L	Vs.	Centralized Processing Centre Post Bag No. 2, Electronic City Post Office, Karnataka- 560500
(Appellant)		(Respondent)

Present for :

Assessee by : None

Revenue by : Shri R. R. Makwana- SR. D.R.

Date of Hearing : 18 . 06 . 2024

Date of Pronouncement : 26 . 07 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1053357748(1) Dated 31/05/2023 for the Assessment Year 2014-15.

2. Following grounds of appeal have been raised by the appellant:

1. *“On the given facts, circumstances and judicial pronouncements, CIT (Appeals) erred in not accepting the appeal filed and not considering the condonation of delay without considering the reasons and providing opportunity of hearing. Thereby the delay be condoned while filing the appeal before CIT(Appeals) and appeal be considered & allowed on merits and deduction u/s.80P be allowed.*
2. *On the given facts, circumstances and judicial pronouncements, CIT (Appeals) erred in confirming the action of Central Processing Centre (CPC) while processing the return u/s.143(1) of The Income Tax Act, 1961 in denying deduction of u/s 80P of Rs.7,92,745/- as claimed by the assessee while filing the Return of Income for A.Y.2014-15. It is therefore submitted that such incorrect processing by CPC resulting in increase of tax liability should be reduced and brought to the amount as shown in the return of income of the assessee after granting full TDS credit for the year under consideration.*
3. *On facts and circumstances, Ld. CIT(A) has erred in confirming the addition without providing proper opportunity of hearing which is against the principle of natural justice. Such addition is bad in law and erroneous in facts and liable to be deleted as the same is confirmed without providing proper opportunity of hearing.*
4. *On the given facts, circumstances and judicial pronouncements, Central Processing Centre (CPC) while processing the return u/s.143(1) of The Income Tax Act, 1961 has levying the interest u/s. 234A, 234B & 234C of The Income Tax Act, 1961 on account of increase in the tax liability. It is therefore submitted that such incorrect processing by CPC resulting in levying of interest of The Income Tax Act, 1961*

should be reduced to NIL for the year under consideration.

5. The appellant craves leave to add, alter, rescind or amend any of the above grounds of appeal.”

3. The facts of the case, in brief, are that the appellant had filed the return of income for the assessment year under consideration on 21/08/2014 declaring the total income at Rs.1,73,700/-. The said return was processed by the CPC u/s.143(1) of the Income Tax Act vide order dated 22/01/2015 assessing the income at Rs.9,66,440/- in which claim of deduction u/s. 80P amounting to Rs.7,92,745/- was denied to the assessee.
4. Aggrieved by the order of the CPC, the assessee filed the appeal before the Ld. CIT(A) who dismissed the appeal of the assessee on the ground that there was a delay of 2057 days in filing the appeal before the Ld. CIT(A) as against the prescribe limit of 30 days as provided u/s. 246A(1)(a). The Ld. CIT(A) in his impugned order has relied on the several decision of the Hon'ble courts that the assessee has failed to demonstrate before him the sufficient cause as envisaged in section 5 of the Limitation Act.
5. Aggrieved by the order of the Ld. CIT(A), this appeal has been filed before us. During the appellate proceedings before us, the assessee filed an affidavit to the effect that “the Ld. CIT(A) dismissed the appeal

without giving any opportunity of hearing to M/s. Clover Regency Co-Operative Society Limited to justify the delay in filing the appeal”.

6. We have considered the facts of the case and the impugned order of the Ld. CIT (A). It is found that the Ld. CIT(A) has not provided the appellant the opportunity of being heard to explain the reason for the delay of 2057 days in filing the appeal. This is against the principle of natural justice and therefore, the case is remanded to the file of the Ld. CIT (A) to provide the assessee the opportunity of being heard and then decide the issue accordingly.

7. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 26.07.2024.

**Sd/-
AMIT SHUKLA
JUDICIAL MEMBER**

**Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER**

Mumbai, Dated: 26.07.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.