

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
**BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.956/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2018-19

AA526 Kinipalayam Primary The Income Tax Officer,  
Agricultural Co-op. Credit Society Vs. Ward-2(1),  
Ltd., Erode.  
Kinipalayam, Vijayamangalam,  
Perundurai, Erode-638 056.  
[PAN: AABAA 8156D]  
(अपीलार्थी/**Appellant**) (प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Shri S. Sridhar, Advocate (Erode)  
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 13.08.2024  
घोषणा की तारीख /Date of Pronouncement : 21.08.2024

आदेश / **ORDER**

**PER JAGADISH, A.M:**

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2018-19 arises out of the order of Learned Commissioner of Income Tax (Appeals), [NFAC], Delhi [hereinafter "CIT(A)"] dated 02.01.2024.

2. There is a delay of 37 days in filing the appeal by the assessee. The assessee has given reason for delay in filing the appeal. We have considered the petition of delay in filing the appeal and heard the

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counsel. We are satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned.

3. The only effective ground in this appeal of assessee is against confirming the disallowance u/s. 80P of the Act by CPC, Bengaluru as the assessee has not filed return within due date.

4. The brief facts of the case are that the appellant society has filed its return of income for AY 2018-19 on 23.03.2019 showing total income of Rs. Nil after claiming deduction u/s. 80P of the Act. The CPC, Bengaluru has not allowed the exemption as the assessee has not filed the return within the due date. Being aggrieved, the assessee preferred an appeal before the Ld.CIT(A). The Ld.CIT(A) has dismissed the appeal of assessee as the return of income was filed beyond the due date.

5. Before us, the Ld. Counsel submitted that the assessee is the Co-op. society registered under Tamil Nadu Co-op. Society Act, 1983. The assessee could not file return of income within prescribed time as its accounts were required to be audited. The assessee has submitted that it has filed condonation petition before CBDT u/s. 119(2)(b) of the

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Act in accordance with Board's circular which is pending and therefore, the Ld. CIT(A) was not justified to dismiss the appeal on the ground that return was not filed within due date.

6. The Ld. D.R has supported the orders of the authorities below.

7. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The Ld CIT(A) has dismissed the appeal for claim of deduction u/s 80P , for the reason that assessee has not filled return within the prescribed due date and as per section 80AC such deduction are not allowable. The Co-ordinate bench in the case of *The Erode City Municipal Corporation Emp. Co-op. T & C Limited K831 vs. Assessing Officer, Ward1-(1), Erode in ITA Nos.509 & 510/Chny/2024 vide order dated 22.07.2024* on similar facts has held as under:

*"We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. It is admitted fact that a petition u/s 119(2)(b) dated 26.12.2023 for condonation of delay in filing claim of deduction u/s 80P is still pending adjudication before the CBDT hence the same has a direct bearing on the issue in hand. Therefore, we deem it fit to restore back the appeal to the Id. CIT(A) for denovo adjudication only after receipt of order of CBDT on petition u/s 119(2)(b) dated 26.12.2023 for condonation of delay in filing claim of deduction u/s 80P. The Id.CIT(A) will proceed with the appeal after affording reasonable opportunity of hearing to the assessee. That on receipt of order of CBDT on petition u/s 119(2)(b) dated 26.12.2023 for condonation of delay in filing claim of deduction u/s 80P, the assessee is also directed to substantiate its case forthwith failing which Ld. CIT(A) shall be at liberty to proceed with disposal of appeal on merits."*

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8. Respectfully following the order of this Tribunal, supra, we set aside the order Ld. CIT(A) and remit the matter back to the file of Ld. CIT(A) for *denovo* adjudication after receipt of order of CBDT on petition u/s 119(2)(b) dated 26.12.2023 for condonation of delay in filing claim of deduction u/s 80P of the Act. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

*Order pronounced on 21<sup>st</sup> August, 2024.*

Sd/-  
(यस यस विश्वनेत्र रवि)  
(SS Viswanethra Ravi)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(जगदीश)  
(Jagadish)  
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 21<sup>st</sup> August, 2024.  
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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