

आयकर अपीलिय 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.961/Chny/2024
निर्धारण वर्ष /Assessment Year: 2018-19

Namakkal Tamil Sangam,
No.54, Thangam Hospital,
Dr. Sankaran Street,
Namakkal – 637 001.
[PAN: AADAN 4419N]
(अपीलार्थी/**Appellant**)

Vs. The Income Tax Officer,
Exemption Ward,
Salem.

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Sri Krishna, C.A
: 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, Appeal, Addl./JCIT(A)-11, Madurai [hereinafter "CIT(A)"] dated 21.03.2024.

2. The only effective ground in this appeal of assessee is against the confirming the denial of exemption claimed u/s. 11 of the Income-tax Act, 1961 (hereinafter "the Act") by CPC, Bengaluru on the ground that

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Form-10B was not filed within the due date, even though the application for condonation of delay u/s. 119(2)(b) of the Act as per CBDT Circular No.13 of 2023 dated 26.07.2023 is pending with CBDT.

3. The assessee has filed its return of income showing total income of Rs. Nil after claiming exemption u/s.11 of the Act. The CPC, Bengaluru has not allowed the exemption u/s.11 of the Act as the assessee has not filed the audit report in Form-10B within due date prescribed.

4. The assessee has contended that it has filed condonation petition u/s. 119(2)(b) of the Act, which is pending before CBDT and therefore, the Ld. CIT(A) should have waited for the order of CBDT before deciding the appeal. The assessee has also contended that the Ld. CIT(A) while dismissing the appeal on the ground that return was not filed within due date, has not recomputed the income at the commercial property.

5. The Ld. D.R has relied on the orders of the authorities below.

6. 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 exemption u/s.11 of the Act for the reason that the assessee has not filed Form-10B within the

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prescribed due date. The assessee has filed Form-10B for condonation of delay in filing the audit report before CBDT which is pending as on date. 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 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."

7. 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 only after receipt of order of CBDT on petition u/s 119(2)(b) dated 26.12.2023 for condonation of delay in filing Form-10B. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

Order pronounced on 21st 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: 21st August, 2024.
EDN/-

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

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