

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1623 & 1624/Bang/2024
Assessment Years : 2017-18 & 2018-19

M/s. Kodlipet VSSBN, Kodlipet PACS, Kodlipet, Somwarpet Tq., Kodagu. Karnataka - 571 231. PAN: AAAAK3383P	Vs.	The Income Tax Officer, Ward - 1, Madikeri.
APPELLANT		RESPONDENT

Assessee by	:	Shri Deepak .G, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	09-10-2024
Date of Pronouncement	:	10-10-2024

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the orders of the NFAC, Delhi both dated 10/11/2023 in respect of the A.Ys. 2017-18 and 2018-19.

2. The brief facts of the case are that the assessee is a co-operative society registered under the provisions of the Karnataka Co-operative Societies Act and their income is eligible for deduction u/s. 80P of the act. During the A.Y., the assessee had filed the return of income and claimed the

deduction u/s. 80P of the Act which was disallowed by the AO on the ground that there is no mutuality. As against the said order, the assessee preferred two appeals before the Ld.CIT(A) and contended that the order of the AO is not in accordance with the judgment of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. vs. CIT reported in (2021) 431 ITR 1. It seems that at the time of hearing the appeals, the assessee has not received the hearing notices through their email and therefore they have not appeared before the Ld.CIT(A), hence the Ld.CIT(A) has rejected the appeals for not prosecuting the same. The said order was also not received by the assessee and when the letter sent by the Pr.CIT, Bangalore intimating about the date of hearing of the stay petition was received, the assessee with the assistance of the Chartered Accountant verified the portal of the department and found that the Ld.CIT(A) had already passed the ex party order on 10/11/2023. The said order was also not sent to the registered email ID of the assessee and thereafter the present appeals were filed before this Tribunal with a delay of 228 days.

3. We have perused the application filed by the assessee in support of the delay and we found that the reason adduced by the assessee that the appellate order was not sent through their registered email ID and therefore proper action could not be taken within the limitation period, is a genuine one and therefore we are inclined to condone the delay of 228 days in filing these appeals.

4. Now coming to the fact that the assessee has not received the notices as well as the appellate order through their registered email, we find that the notices and appellate order might have been sent to the email ID noted in the form 35 whereas the registered email ID of the assessee is kodlipetpacs1@gmail.com . Even though the assessee had pleaded that the disallowance made by the AO is not in accordance with the judgment of the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. vs. CIT (supra), we find that the Ld.CIT(A) had no occasion to deal with

this issue on merits. Admittedly, the Ld.CIT(A) had passed the orders ex-parte and therefore we are of the view that the matters should go back to the Ld.CIT(A) for deciding the issue afresh after hearing the petitioner. We also make it clear that the Ld.CIT(A) will send the notice to the registered email ID of the assessee which is kodlipetpacs1@gmail.com and the assessee also without seeking any further adjournment, appear before the Ld.CIT(A) along with the necessary documents to substantiate their case. If the assessee had failed to appear, it is open to the Ld.CIT(A) to pass suitable orders on merits in accordance with law.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 10th October, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 10th October, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore