

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1520/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. AA 548 S Sullipalayam – Primary Agricultural Co-op. Credit Society Ltd., AA 548, Penavaram, Sullipalayam, Erode-638 057.	<b>v.</b>	The ITO, Ward-2(1), Erode.
[ <b>PAN: AABAA 8158 P</b> ]		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Sridhar (Erode), Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Dr. Samuel Pitta, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.08.2024
घोषणाकीतारीख /Date of Pronouncement	:	23.10.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee Primary Agricultural Co-op. Credit Society against the order of the Learned Commissioner of Income Tax (Appeal), (hereinafter in short "the Ld.CIT(A)"), Addl./JCIT(A), Panchkula, dated 18.03.2024 for the Assessment Year (hereinafter in short "AY") 2018-19.



:: 2 ::

**2.** At the outset it is noted that there is a delay of '3' days in filing of this appeal and since it is noted that assessee was prevented by sufficient cause, the Ld. Counsel for the assessee prayed for condonation of delay, for which, the Ld.DR didn't raise any objection and hence, we condone the delay of '3' days and proceed to adjudicate the appeal on merits.

**3.** The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the action of the CPC disallowing the deduction claimed u/s.80P of the Income Tax Act, 1961 (hereinafter in short "the Act").

**4.** The brief facts are that the assessee filed its return of income (RoI) u/s.139 of the Act for AY 2018-19 on 20.03.2019 admitting 'NIL' income after claiming deduction u/s.80P of the Act. Since accounts of the assessee-Society was not audited under Tamil Nadu Co-operative Societies Act, 1983 within the due date u/s.139(1) of the Act, and the statutory-audit was over only on 31.12.2018 (refer Auditor's Certificate), the assessee couldn't file the RoI on or before due date for filing of RoI u/s.139(1) of the Act. Therefore, the assessee preferred a condonation petition before the CBDT on 19.03.2019 praying for condonation of delay in filing of the RoI. The CPC gave show cause notice to the assessee 'as to why' its claim of deduction u/s.80P of the Act shouldn't be denied because it didn't file the RoI within the due-date u/s.139(1) of the Act.



:: 3 ::

The assessee replied about the pendency of the condonation petition filed before the CBDT. Despite, knowing about condonation petition pending before the CBDT, the CPC processed the return u/s.143(1) of the Act and passed the intimation on 14.06.2019 denying the claim of deduction u/s.80P of the Act.

**5.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to dismiss the same.

**6.** Aggrieved, the assessee is in appeal before this Tribunal.

**7.** We have heard both the parties and perused the material available on record. We note that the assessee society is a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, 1983 and filed its RoI u/s.139(4) of the Act for AY 2018-19 on 20.03.2019 admitting 'NIL' income after claiming deduction u/s.80P of the Act. The delay in filing of return u/s.139(1) of the Act was due to belated statutory audit carried out as per the Tamil Nadu Co-operative Societies Act, 1983 on 31.12.2018 (refer Auditor's Certificate). And in order to condone the delay in filing of RoI, the assessee filed the condonation application before CBDT on 19.03.2019 and thereafter filed its RoI on 20.03.2019 and duly informed the CPC as well as the Ld.CIT(A) of having preferred condonation petition before the CBDT. Despite, knowing about the pendency of condonation application filed by assessee before CBDT, both



ITA No.1520/Chny/2024 (AY 2018-19)  
M/s. AA 548 S Sullipalayam Primary –  
Agricultural Co-op. Credit Society Ltd.

:: 4 ::

the authorities [CPC as well as the Ld.CIT(A)] has denied the claim of exemption u/s.80P of the Act, which impugned action, we don't countenance for the simple reason that the assessee being an Agricultural Cooperative Society registered under the Tamil Nadu Co-operative Societies Act, 1983 had to carry out statutory audit as per the said Act and pursuant to that statutory audit under the Tamil Nadu Co-operative Societies Act, 1983, was over only on 31.12.2018. And the assessee belatedly filed the return on 20.03.2019 and had filed condonation application on 19.03.2019, which is pending before the CBDT. In this context it is noted that the Hon'ble Supreme Court in the case of Mavilayi Service Co-operative Bank Ltd. & Othrs. V. CIT reported in [2021] 431 ITR 1 (SC), held that deduction claimed u/s.80P of the Act shouldn't be denied, because, it is benevolent provision enacted by the Parliament to encourage and promote the cooperative sector in general. Therefore, we set aside the impugned order and restore the appeal back to the file of the Ld.CIT(A) with a direction to adjudicate the grounds of appeal raised by the assessee (u/s.80P of the Act) after CBDT passes order on the condonation petition filed before it. The Ld.AR of the assessee to follow up with CBDT/delegated-authority, if any, and to place before the Ld.CIT(A) the decision regarding the fate of the condonation petition filed before the CBDT. Thereafter, the Ld.CIT(A) to adjudicate the grounds of appeal on merits pass in accordance to law after hearing the assessee.



ITA No.1520/Chny/2024 (AY 2018-19)  
M/s. AA 548 S Sullipalayam Primary –  
Agricultural Co-op. Credit Society Ltd.

:: 5 ::

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

Order pronounced on the 23<sup>rd</sup> day of October, 2024, in Chennai.

**Sd/-**  
**(मनोज कुमार अग्रवाल)**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
**(एबी टी. वर्की)**  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 23<sup>rd</sup> October, 2024.

**TLN, Sr.PS**

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF