

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1498/Chny/2024
निर्धारण वर्ष/Assessment Year: 2020-21

JJ105 Perambakkam Primary Agricultural Co-op. Credit Society, No.252, Nallathamman Koil Street, Perambakkam, Tiruvallur – 631 402.	v.	The ITO, Ward-1, Tiruvallur.
[PAN: AABAJ 1902 E]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.B. Suresh, CA
प्रत्यर्थी की ओर से /Respondent by	:	Dr.Samuel Pitta, JCIT
सुनवाईकीतारीख/Date of Hearing	:	14.08.2024
घोषणाकीतारीख /Date of Pronouncement	:	09.10.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee JJ105 Perambakkam Primary Agricultural Co-op. Credit Society against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 12.04.2024 for the Assessment Year (hereinafter in short "AY") 2020-21.



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2. The brief facts are that the assessee is a Primary Agricultural Co-op. Credit Society and had filed its return of income (RoI) for AY 2020-21 on 20.04.2021 declaring gross total income of ₹40,71,382/-; and after claiming deduction of ₹40,71,382/- u/s.80P of the Income Tax Act, 1961 (hereinafter in short "the Act"), total income was computed at Rs.NIL. The AO acknowledged that the assessee is a Primary Agricultural Co-op. Credit Society registered under the Co-op. Act & Co-op. Society Act. The AO also noted that Society is engaged in providing credit facilities to its members and that RoI of the assessee was selected for limited scrutiny; and the AO also noted that the assessee has filed ITR u/s.139(4) of the Act i.e. belatedly and has claimed deduction u/s.80P of the Act, which according to him is not allowable in view of the provisions of Sec.80AC of the Act. And since, the assessee didn't file the return of income (RoI) before the due date specified u/s.139(1) of the Act, he denied deduction u/s.80P of the Act and determined total income at ₹40,71,382/- by assessment order dated 24.09.2022.

3. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who reiterated the action of the AO and dismissed the appeal.

4. Aggrieved, the assessee is in appeal before this Tribunal.

5. We have heard both the parties and perused the material available on record. We note that the aforesaid facts stated therein are not



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disputed and therefore, it is not repeated for the sake of brevity. Before us, the Ld.AR of the assessee brought to our notice that for condoning the delay in filing of the return of income, the assessee has preferred application for condonation of delay vide letter dated 13.05.2024 before the Ld. Commissioner, Chennai. The Ld.AR explained the reason for delay in filing of the RoI, which according to him was that the assessee being registered under the Co-op. Societies Act, its accounts need to be audited by the Audit Department of the Government of Tamil Nadu (refer sec.80 of the Tamil Nadu Co-op. Societies Act). And since it is a statutory requirement i.e., the assessee had to undergo the audit-by-Audit Team of Government of Tamil Nadu; and the audit for AY 2020-21 was completed only on 07.06.2021 and immediately thereafter, the financials were signed on the same day (i.e.07.06.2021). It is noted that the due-date for filing of the return u/s.139(1) of the Act was 31.03.2021. (due-date for filing of return was extended up to 31.03.2021 due to Covid-19) and the assessee filed the return of income (RoI) on 20.04.2021 (delay of '20' days) and one of the main reasons for belated completion of the statutory audit due to pandemic Covid-19 and therefore, couldn't file the return in time. The Ld.AR drew our attention to the CBDT Circular No.13/2023 dated 26.07.2023, wherein, the CBDT after receiving several representations from several Co-op. Societies, has taken note of the difficulties faced by them [Co-op. Societies] while claiming deduction



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u/s.80P of the Act for various AYs 2019-20 to AY 2022-23 and their prayer that delayed furnishing of return of income (RoI) be condoned and treat such returns as "*returns furnished within due-date under sub-sec.(1) of sec.139 of the Act*" because the delay in furnishing return of income (RoI) was caused due to delay in getting the accounts audited under the respective State Laws. Taking note of their plea, the CBDT in order to mitigate the hardships, in exercise of its powers u/s.119 of the Act has delegated the power to the Chief Commissioner of Income Tax (hereinafter in short 'CCIT')/Directorate General of Income Tax Investigation (hereinafter in short 'DGIT') to deal with such application for condonation of delay pending before the CBDT and upon transfer of such application by the Board to the delegated authorities (supra) to decide such application on merits. Thus, it is noted that CBDT has directed the CCIT/DGIT to admit the pending/new application for condonation of delay in furnishing of return of income (RoI) claiming deduction u/s.80P of the Act for AYs 2018-19 to 2022-23 and decide such applications. Pursuant to the ibid CBDT Circular, we note that the assessee has filed application dated 13.05.2024 for condonation of delay before the Chief Commissioner of Income Tax-1, Chennai, which is pending before the Ld CCIT. In such a scenario, for the ends of justice and fair play, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to assess the claim of the assessee u/s.80P



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Agricultural Co-op. Credit Society

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of the Act on merits, after receipt of the decision of the Ld CCIT/delegated authority on the application for condoning delay in filing of the return u/s.139 of the Act; and thereafter, to frame the assessment after hearing the assessee in accordance to law. The assessee is at liberty to file written submissions/relevant documents to substantiate its case.

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

Order pronounced on the 09th day of October, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

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

चेन्नई/Chennai,
दिनांक/Dated: 09th October, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF