

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एबी. टी. वर्की, न्यायिक सदस्य एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, HON'BLE JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./**ITA No.: 1872/Chny/2024**

निर्धारणवर्ष / Assessment Year: 2017-18

AA531 Kesarimangalam Primary Income Tax Officer,
Agri Co-op Credit Society Limited, v. Ward -2(5),
Kuppichipalayam, Erode.
Kesarimangalam (P.O),
Bhavani – 638 311.

[PAN: AACAA-6388-G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : None

प्रत्यर्थीकीओरसे/Respondent by : Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 28.10.2024

घोषणा की तारीख/Date of Pronouncement : 30.10.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), Addl/JCIT(A)-10, Mumbai, dated 27.02.2024 and pertains to assessment year 2017-18.

2. At the outset, we find that there is a delay of 72 days in appeal filed by the assessee, for which petition for condonation of delay along with reasons for delay has been filed. After

considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. The brief facts of the case are that, the assessee is a primary agricultural co-operative credit society registered under the Tamilnadu Co-operative Societies Act, 1983. The assessee filed its return of income for the assessment year 2017-18 on 08.03.2018 admitting nil income after claiming deduction u/s. 80P of the Act totaling to Rs.14,05,117/-. Subsequently, the case was selected for limited scrutiny under CASS for large deduction under Chapter VIA and low income in comparison to investments/advances/loans and issued notice u/s. 143(2) on 10.08.2018. A notice u/s. 142(1) of the Act was also issued requesting to furnish the details/documents specified therein. In response to the notice, the assessee submitted profit & loss account, balance sheet, schedules etc. However, not satisfied with the details furnished by the assessee, the Assessing Officer held that deduction u/s.

80P(2)(a) of the Act for the income earned from providing credit facility is not allowed, if the deduction is allowed then the activity of the society falls under any other activity described in 80P(2)(c) of the Act and allowed Rs.50,000/- u/s. 80P(2)(c) of the Act and assessed income at Rs.7,06,759/-. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A).

4. Before the Id.CIT(A), the assessee filed an appeal with a delay of 507 days (1223 days including covid period) for which the reason given was the assessee was occupied with statutory audit and does not have qualified accountant to look after the proceedings. Further, the assessee stated that Tamilnadu State Accounting and Taxation Services Co-operative Society was formed to look after the taxation matters of the Co-operative societies and that society identified the pending proceedings of the assessee and immediately filed the appeal. The Id.CIT(A) after considering the submissions made by the assessee held that there is no sufficient cause u/s. 249(3) of the Act for condoning the delay and dismissed the appeal of the assessee without adjudicating on merits by not condoning

the delay. Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

5. None appeared at the time of hearing. Per contra, the Id.DR prayed for dismissing the appeal filed by the assessee.

6. We have heard the Id.DR and perused the materials available on record. We note that the Id.CIT(A) has dismissed the appeal without condoning the delay in filing the appeal by the assessee. We note that though the assessment order has been passed on 06.12.2018 and due to covid-19 pandemic, the assessee could not file the appeal. We take judicial notice of the Hon'ble Supreme Court decision for condoning the delay in filing upto June 2021, and finding that assessee filed the appeal before CIT(A) on 22.05.2023, since the assessee being a primary agricultural credit & co-op society which carries on the business not for profit had to undergo statutory audit as envisaged by the Co-operative Societies Act and therefore, it was prevented from filing the appeal in time, which we find to be reasonable, and hence, in the interest of justice and fair play, we condone the delay in filing the appeal before the Ld.CIT(A) and since the Id.CIT(A) has not decided the grounds

of appeal as per sub-section (6) of section 250 of the Act, we deem it fit to set aside the order of the Id.CIT(A) and remit the matter back to the file of the CIT(A) and direct CIT(A) to decide the grounds of appeal in accordance to law, after providing reasonable opportunity to the assessee. Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the court on 30th October, 2024 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिकसदस्य/**Judicial Member**

Sd/-
(एस. आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 30th October, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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