

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

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No. 1586/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2022-2023.

S 303 Nallaralpalli PACCS
Samanapalli, Hosur,
Krishnagiri 635 117.

The Income Tax Officer,
Vs. Ward 1,
Hosur

PAN: AAALS 2772F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. G. Reddy Prakash, C.A.,
प्रत्यर्थी की ओर से/Respondent by : Ms. Deeptha, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 30.09.2024

घोषणा की तारीख/Date of Pronouncement : 25.11.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal by assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals)-1, Office of the Commissioner of Income Tax (Appeal), Ludhiana in order No.ITBA /APL/S /250/2023-24/1063487063 (1), dated 27.03.2024. The assessment was framed by the Deputy Director of Income Tax, Centralized Processing Center, Bengaluru for the assessment year 2022-2023, u/s. 143(1)

of the Income Tax Act, 1961 (in short 'the Act') vide order dated 07.06.2023.

2. The brief facts of the case are that the assessee is a cooperative society registered under the Tamil Nadu Co-operative Societies Act, 1983. The Society was formed with object of running PDS shops & lending money to farmers who are members of the society for Agriculture purpose by borrowing funds from co-operative central Bank and the same was utilized for the issue of loans to its members for the agricultural motive of the members in the society. The Society activities are conducted as per Bye-law, registered with the Co-operative Department. All the activities were monitored by the Joint Registrar of Tamil Nadu Co-operative Department. Statutory Audit was conducted every year by Assistant Director of Tamil Nadu Co-operative Audit Department. Books of Accounts were maintained as per the rules prescribed by the Tamil Nadu Co-operative Department and return of Income filed as per Books of accounts and Statutory Audit Report. The assessee society has filed the Return of Income for the Assessment year 2022-23 on 07-10-2022 which is well within the due date and the same has been verified on 09-11-2022 and the extended due date for filing the return of Income for the AY 2022-23 is 07-11-2022. There was delay of two days in verifying the return of income. The assessee stated that delay is due to the process of linking PAN-Aadhar of the secretary. However, the Id. Assessing Officer was not convinced with the reply and disallowed claim under section 80P of the Income Tax Act, 1961 (in short 'the Act') amounting to Rs.38,95,370 and an amount of Rs. 14,72,400

has been raised against the assessee. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

3. Before the Id. CIT(A) assessee has submitted that as soon as the PAN-Aadhar has been linked the assessee tried to verify the return of Income before due date but due to server issue on the last date of filing Return of Income it was unable verify on that date. As soon as the server issue was sorted out, it verified the return of Income through Aadhar OTP. It has also submitted that, since AY 2022-23 was the first year of amendment for reducing the time limit for e- verification from 120 days to 30 days the assessee was unaware about the amendment. However, Id. CIT(A) denied the deduction u/s.80P of the Act on the ground that as per the provisions of s. 80AC of the Act, return has to be filed within due date of filing return under section 139(1) of the Act. Further, he placed reliance on the decision of the Mumbai Bench of the Tribunal in the case of *Janki Vaishali Co-operative Housing Society Limited* wherein the Tribunal had refused to entertain the claim which was furnished after last date specified under Section 80AC of the Act. Aggrieved, assessee preferred an appeal before the Tribunal.

4. The Id. AR reiterated the submissions which were made before the Id. CIT(A). Per contra, the Id. DR, Ms. Deeptha, JCIT relied upon and supported the order of the Id. CIT(A) and prayed for the dismissal of the appeal.

5. We have heard the rival contentions and perused the orders of the lower authorities. We find that the assessee society has filed the return of Income for AY 2022-23 on 07.10.2022 which is well within the due date of

31.10.2022. The due date of filing return was further extended by the CBDT to 07.11.2022. The last date for verification of the return of Income for AY 2022-23 in the case of assessee society was on 07.11.2022. However, the assessee society verified the return of income on 09.11.2022, which caused delay of two (2) days on account of technical glitches in PAN-Aadhar linking of the secretary of assessee society. The CPC has treated the date of verifying the return of income as date of filing the return of income and disallowed the deduction claimed u/s 80P amounting to Rs.38,95,370/-.

6. We find that delay of two (2) days in verifying the return of income on account of technical glitches in PAN-Aadhar linking is bonafide and venial breach hence condoned. The Hon'ble jurisdictional High Court in the case of Balaji Super Alloys Vs Principal Commissioner of Income Tax, W.P.No.11427 of 2023 and WMP Nos.11318 & 11320 of 2023 13.06.2023 has after considering the delay in uploading the return, condoned the delay. The relevant paras of the judgment are reproduced herewith:

2. The petitioner has filed a return of income for assessment year (AY) 2020-2021 on 16.02.2021. Admittedly, the return had come to be uploaded only on 00.00.21 am of 16.02.2021, with a delay of 21 seconds, as the last date for filing of return was 15.02.2021 midnight.

3. This is explained by the petitioner at paragraph 5 of its affidavit to the effect that the return had been prepared in Extensible Markup Language (XML) format on 15.02.2021 and filed at 11.59 p.m. However, it so happened that the uploading of the return took place 21 seconds later. Hence, and on the basis that the return of income had been uploaded belatedly, the intimation issued under Section 143(1) on 24.12.2021 disallowed the claim of deduction under Section 80IA of the Act and a consequential demand was raised.

4. The petitioner thus sought condonation of the delay of 21 seconds for filing return of income which had come to be rejected by the respondent vide order dated 24.11.2022, wherein it is stated that the return of income had been due on or before 10.01.2021, not noticing

that the time had been extended till 15.02.2021. This necessitated the petitioner to approach the respondent by way of a rectification petition dated 15.02.2023, which has also been dismissed on 03.03.2023, the respondent stating that the error in date only constitutes a typographical error.

5. There is nothing untoward in the rejection of the deduction under Section 80IA for the reason that the return has admittedly been uploaded belatedly. However, the quantum of delay is not substantial, being 21 seconds. Undoubtedly, the petitioner ought not to have undertaken the exercise of filing of the return literally at the last second, but in my considered view, the 21 seconds delay could be considered to be a human error and condoned, bearing in mind the dictates of substantial justice.

6. Even as per the affidavit filed in support of the Writ Petition, the return had been filed only at 11.59 p.m. on 15.02.2021. The petitioner, being a company, ought to have ensured that the filing of return was sufficiently in time factoring in possible glitches or technical difficulties.

7. The defense of the learned Standing Counsel is that there is nothing wrong in the rejection of the return, since the software is so programmed to automatically close the portal at midnight. This may well be right. However, the request for condonation has been considered not by a machine but a human being, who, in my view, could well have considered the request in proper perspective, condoning the delay of 21 seconds.

8. For the aforesaid reasons, the impugned orders are set aside and the delay is condoned. The return of the petitioner for assessment year 2020-2021 shall be taken to have been filed in time with all consequences thereof. The petitioner will ensure that, henceforth, statutory compliances and due diligence are effected well in time.

9. This Writ Petition stands allowed. No costs. Connected Miscellaneous Petitions are closed.

7. The above judgment of the Hon'ble jurisdictional High Court guide us to take a more lenient and flexible approach to minor deviations from statutory deadlines, particularly in the cases of the human error or technical glitches. Therefore, rigorous compliance cannot defeat the substantial justice in genuine cases of human or technical error. We also find that the Hon'ble High Courts have rescued the assessee by taking lenient in strict compliance of statutory rules on account of genuine and bonafide technical glitches or human error. Some of the cases are as under:

"Jyotsna M. Mehta Vs PCIT [2024] 166 taxmann.com 442 (Bombay);

Neumec Builders Pvt. Ltd Vs CBDT [WP(L). No.30260/2024] (Bombay HC);

Smita Dilip Ghule Vs CBDT [Writ Petition (ST) No. 2348 of 2024] Dt.:08.10.2024".

8. Therefore, in the light of the entire conspectus of matter, the impugned order is set aside and the delay in verification of the return by the assessee is condoned. Hence, the verification of the return by the assessee on 09.11.2022 shall be taken to have been filed in time with all consequences thereof. The AO is directed to take view on the deduction claimed u/s 80P of the Act.

9. In result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 25th day of November, 2024 at Chennai.

Sd/-

एस.आर. रघुनाथा

(S.R. RAGHUNATHA)

लेखा सदस्य/ ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 25th November, 2024

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER