

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1992/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2018-19

Udagudi Primary Agri. Co-Op. Bank Limited EE 423,  
Udagudi Primary Agri. Co-op. Bank Ltd., Udagudi,  
Tuticorin – 628 208.  
[PAN: AAAAU 0956C]

**Vs.** The Income Tax Officer,  
Ward-2,  
Tuticorin.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri S. Sridhar, Advocate (virtual)  
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 15.10.2024

घोषणा की तारीख /Date of Pronouncement

: 15.10.2024

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 10.06.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143 r.w.s 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter "the Act") on 19.03.2021.

2. The only effective ground of appeal in this appeal of assessee is against the order of Ld. CIT(A) in confirming the disallowance of Rs. 42,64,325/- claimed u/s. 80P of the Act.

3. The assessee is a co-operative society and filed return of income on 30.03.2019 declaring total income at Nil. The assessee in the return of income has claimed deduction u/s. 80P of the Act of Rs. 42,64,325/-. The A.O in the assessment order passed u/s. 143(3) of the Act has disallowed the claim of deduction u/s. 80P of the Act as the assessee has not responded to the notices issued u/s. 142(1) of the Act requesting to file necessary details or evidence in support of its claim. On appeal, the Ld. CIT(A) has confirmed the disallowance. The Ld. CIT(A) has further noted that return was filed on 30.03.2019 as against due date on 30.09.2019 which means the return was filed belated and as per Section 80AC, the assessee is not eligible for the claim u/s. 80P of the Act.

4. The Ld. Authorized Representative (A.R) of the assessee has submitted that the assessee has filed a petition for condonation of delay in filing return of income u/s. 119(2)(b) of the Act, which is pending before CBDT. The Ld. AR has submitted that the Ld. CIT(A)

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has decided the appeal without considering the fact that the assessee's petition for condonation of delay in filing return is pending before the Board. The Ld. AR therefore requested that the order of Ld. CIT(A) may be set aside and he may be directed to decide the appeal after decision of CBDT.

5. The Ld. Departmental Representative (DR), on the other hand, has relied on the orders of lower authorities.

6. We have heard the rival submissions, and perused the materials available on record. The Ld. CIT(A) has confirmed the claim u/s 80P in the return of income on the ground that the assessee has not filed return within the due date prescribed and therefore as per Section 80AC, deduction u/s 80P is not allowable. However, the assessee has submitted that the it has filled condonation petition for late filing return of income and same was pending before CBDT, therefore Ld CIT(A) was not justified to dismiss appeal without considering the condonation petition. We find that assessee is cooperative society and it could not file return of income within the due date as the appointed auditor has not audited the account by due date. The Assessee has filled condonation petition, which is pending. In view of above, we

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remand matter back to the file of Ld. CIT(A) for deciding the appeal after the decision of CBDT. Thus, the appeal filed by the assessee is allowed for statistical purposes only.

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

*Order pronounced in the open Court on 15<sup>th</sup> October, 2024.*

**Sd/-**  
**(महवीर सिंह)**  
**(Mahavir Singh)**  
**उपध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 15<sup>th</sup> October, 2024.

EDN/-

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

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