

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER

आयकरअपील सं./ ITA Nos.1898, 2137 & 2139/Chny/2024
(निर्धारणवर्ष / Assessment Years: 2016-2017, 2020-21 & 2020-2021)

The Perundurai Primary Agricultural
Co-Operative Bank Limited,
No.330, Bhavani Road,
Perundurai,
Erode 638 052.

Vs. The Income Tax Officer,
Ward 2(1),
Erode

[PAN: AABAT 2523R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Ms. A. Vijayalakshmi, C.A.,
: Shri V. Justin, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 27.11.2024

घोषणा की तारीख /Date of Pronouncement

: 29.11.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

These appeals by the assessee are arising out of the different orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in dated 14.05.2024, 13.06.2024 and 13.06.2024 respectively for the assessment years 2016-2017, 2020-21 & 2020-2021.

2. The issue of claim u/s.80P(2)(a)(i) are in ITA Nos.1898 & 2137/Chny/2024 for assessment years 2016-2017 & 2020-21, hence

will take the facts and grounds from ITA Nos.1898/Chny/2024 for assessment year 2016-2017 for adjudication and will decide the issue, which is applied to the other appeal No.ITA No.2137/Chny/2024 for assessment year 2020-21 also.

3. Brief facts of the case are that the assessee is a primary agricultural co-operative credit society Ltd., registered under the Tamilnadu Co-operative Societies Act, 1983. The assessee filed its return of income for the A.Y.2016-17 on 13.04.2017 admitting Nil income after claiming deduction u/s. 80P(2)(a)(i) of the Act of Rs.14,42,924/-. The return of income was processed u/s 143(1) of the Act. The case was selected for scrutiny under CASS under "limited scrutiny category' for the reasons that whether deduction under Chapter VIA has been claimed correctly and also with regards to Investments /advances/loans. The Id. Assessing Officer vide notice u/s 142(1) of the Act, dated 12/10/2018 directed the assessee to file details to explain their eligibility to claim the deduction u/s 80P(2)(a)(i) of the Act. The assessee furnished the statement of computation, Profit and loss account, Form No.3CB etc and failed to substantiate its claim to deduction u/s 80P of the Act. Therefore, the deduction claimed u/s.80P(2)(a)(i) amounting to Rs. 14,42,924/- was disallowed by the AO and the same was treated as income of the society. Aggrieved, the assessee preferred an appeal before the Id. CIT(A).

4. The appeal was filed before the Id. CIT(A) with a delay of 1603 days as the assessment order u/s.143(3) of the Act, dated 24.12.2018 was served on the appellant on 24.12.2018 and the appeal was e-filed by the assessee on 14.06.2023 which is 1603 days after the expiry of 30 days period allowed for filing the appeal before the CIT(A) by the Act. The Id. CIT(A) before proceeding to decide merits of the appeal, has adjudicated the condonation of delay of 1603 days. In the condonation of delay assessee submitted that it is a Primary Agricultural Co-operative credit Society and the Society is under the obligation to get the books of accounts audited. The statutory Auditor of the Society is the Tamil Nadu Co-operative Audit Department, Erode headed by Assistant Director of Co-operative Audit. Total number of days delay 1581 on which 716 days delay comes within the ambit of exclusion provided by the Hon'ble Supreme Court in view of Covid Pandemic-19 and the Hon'ble Supreme Court in Misc. Application No.665 of 2021 vide order dated 23.03.2020 had given directions that delay is to be condoned during the period from 15.03.2020 to 14.03.2021 and finally condoned delay upto 28.02.2022 in Misc. Application No.21 of 2022 vide order dated 10.01. 2022. Hence effectively counted only 865 days delay in filing the appeal. The Appellant submitted that the society was not having any qualified Accountant to look after the proceedings. Only the Secretary was

trained to look after the Taxation matters of the Co-operative Societies Act. The Society identified the pending proceedings and immediately filed the Appeal and hence requested to condone the delay in filing the appeal. According to the Id.CIT(A), assessee has merely mentioned that the delay was due to Covid Pandemic-19 and there is no qualified Accountant to look after the proceedings. As per the Id.CIT(A) it is settled position of law that the assessee is duty bound to explain each day's delay after the last date of limitation. Since there was no proper explanation and reasons of delay have not been demonstrated, the Id. CIT(A) dismissed the appeal in limine but also decided to adjudicate the appeal on merits.

5. At the time of appellate proceedings, the assessee filed written submissions alongwith certain documents which is essentially an additional evidence not submitted before the Id. Assessing Officer. The assessee while filing form No.35, row no.12, against "whether any documentary evidence other then the evidence produced during the course of proceedings before Income-tax Authority has been filed in terms of Rule 46A" the assessee has clearly mentioned "No'. The Id. CIT(A) was of the view that the additional evidence filed by the assessee is not admissible and hence he has not admitted the same. Further, the Id. CIT(A) was of the opinion that the Id. Assessing Officer has passed well reasoned and speaking order, hence no interfere is

required on the claim of deduction u/s. 80P(2)(a) (i) amounting to Rs. 14,42,924/- and he confirmed the action of the Id. Assessing Officer and dismissed the appeal of the assessee on both counts. Aggrieved, assessee preferred an appeal before the Tribunal.

6. Before us, the Id. Authorized Representative for the assessee reiterated the submissions made before the Id. CIT(A) and prayed to condone the delay and remit the appeal back to the file of the CIT(A) for fresh adjudication. In reply, the Id. Addl. CIT-DR stated that the cause deliberated by the Id. AR does not seem to be supported by any evidence and also it is a make believe story and hence, it should not be accepted.

7. After hearing rival contentions and going through the fact that the delay is of 1603 days and the assessee claims that it is a Primary Agricultural Co-operative credit Society and the staffs are not well trained in income tax matters hence there was a lapse on the part of the assessee to file the appeal on time. We are of the view that the reasons stated by the assessee seems convincing and in order to advance substantial justice, we are inclined to condone the delay before the CIT(A)-NFAC and the order of the CIT(A)-NFAC is remit back to his file subject to payment of cost of Rs.5000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Id. CIT(A), whose shall be at liberty to proceed with the disposal of the appeal on merits

denovo. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal as per law. The appeal of the assessee is allowed for statistical purpose. This order is equally apply mutatis mutandis to ITA No.2137/Chny/2024 for assessment year 2020-21 and similar cost of Rs.5,000/- for this year also accordingly to be paid by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Id. CIT(A), whose shall be at liberty to proceed with the disposal of the appeal on merits denovo.

8. Now, we take up ITA No.2139/Chny/2024 for assessment year 2020-2021 for adjudication:-

We note that penalty is levied by the AO u/s.270A of the Act and confirmed by CIT(A) on account of disallowance of deduction u/s.80P of the Act. Since, in quantum appeal we have remitted the issue of claim u/s 80P(2)(a)(i) back to the file of the Id.CIT(A) to decide the appeal on merits hence this appeal is also remitted back to the Id.CIT(A) for fresh adjudication on merits after considering the findings in quantum appeal.

9. In the result, the appeals filed by the assessee in ITA Nos.1898 and 2137/Chny/2024 and ITA No.2139/Chny/2024 for assessment years 2016-17 and 2020-2021 are allowed for statistical purpose.

Order pronounced in the open court on 29th day of November, 2024

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated : 29-11-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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