

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, JUDICIAL MEMBER AND  
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2575/Chny/2024  
&  
**Stay Application No.62/chny/2024**  
निर्धारण वर्ष/Assessment Year: 2018-19

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| M/s. C-2504 Nattarampalli-<br>Primary Agricultural Co-op.<br>Credit Society Ltd.,<br>Nehru Street, Natrampalli,<br>Tirupattur-635 852. | <b>v.</b> | The ITO,<br>CHE-W-(146)(2),<br>Ward-2,<br>Vellore. |
| [PAN: AAHFC 5944 N]  |           |  |
| (अपीलार्थी/Appellant)  |           | (प्रत्यर्थी/Respondent)                            |
| अपीलार्थी की ओर से/ Appellant by   | :         | Mr. P. Jainendar, CA                               |
| प्रत्यर्थी की ओर से /Respondent by   | :         | Ms. R. Anita, Addl.CIT                             |
| सुनवाईकीतारीख/Date of Hearing  | :         | 05.11.2024   |
| घोषणाकीतारीख /Date of Pronouncement  | :         | 13.12.2024   |

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee Primary Agricultural Co-operative Credit Society Ltd., against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 09.08.2024 for the Assessment Year (hereinafter in short "AY") 2018-19.



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**2.** The main grievance of the assessee is against the action of the Ld.CIT(A) passing *ex parte* order as well as the AO passing the *ex parte* order and assessing the income of the assessee at R.1,08,53,488/- u/s.69A of the Income Tax Act, 1961 (hereinafter in short "the Act") which has been confirmed by the Ld.CIT(A). According to the Ld.AR, the assessee was under the bona fide belief that being a Co-operative Society, it was eligible for exemption u/s.80P(2)(a)(i) of the Act and it was not mandatory to file return of income (RoI). According to the assessee, its income was derived from its primary activity of providing credit facilities to its members and its entire income would qualify for exemption, and no tax liability would arise. However, the AO re-opened the assessment by issuing notice u/s.148 of the Act. Pursuant to which, the assessee handed over its relevant papers to the Tax Consultant who was not techno-savvy, because of which, the assessee or the Tax Consultant was unaware of the notices issued by the AO/Ld.CIT(A) and which led to the *ex parte* orders being passed by the AO as well as the Ld.CIT(A). Therefore, he prays one more opportunity be granted to the assessee before the AO and cited decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC).

**3.** Per contra, the Ld.DR doesn't want us to give one more innings to the assessee and pointed out from AY 2018-19 that [i.e. relevant



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assessment year] as per sec.80AC of the Act, assessee was mandatorily required to file the RoI and omission to do so, resulted in the disallowance; and also pointed out that the assessee didn't file any condonation application for belated filing of RoI and therefore, even if the assessment is restored back to the file of the AO, it would be a futile exercise.

**4.** We have heard both the parties and perused the material available on record. It is noted that impugned order as well as the assessment order has been passed *ex parte* qua assessee without hearing the assessee. The assessee is a Primary Agricultural Co-op. Credit Society and was under the bona fide belief that its income was exempt from tax u/s.80P(2)(a)(i) of the Act and therefore, didn't file the RoI. It is noted that amendment was brought in section 80AC for the first time mandating filing of RoI from the relevant year under consideration. Be that as it may, since it has been brought to our notice that due to fault of Tax Consultant, AO as well as the Ld CIT(A) has passed the *exparte* orders qua assessee, for which omission the assessee can't be blamed; and considering that assessee is a Primary Agricultural Co-op. Credit Society and the assessment was framed without hearing the assessee, the impugned action needs to be interdicted. Therefore, relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT (supra), we set aside the impugned order of the Ld.CIT(A) and restore



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the assessment back to the file of the AO with a direction to frame de novo assessment after hearing the assessee. The assessee is directed to file written submissions/relevant documents before the AO as well as file condonation application before competent authority if advised to do so. The AO is at liberty to take notice of the objection raised by the Revenue regarding non-filing of RoI/condonation to be obtained from the competent authority for belated filing of RoI etc. and the AO to pass fresh assessment orders after hearing assessee in accordance to law.

**5.** In the result, appeal filed by the assessee is allowed for statistical purposes and the Stay Petition No.62/chny/2024 being infructuous is dismissed.

Order pronounced on the 13<sup>th</sup> day of December, 2024, in Chennai.

**Sd/-**

(एस. आर. रघुनाथा)

**(S.R.RAGHUNATHA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 13<sup>th</sup> December, 2024.

**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित /Copy to:

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