

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.2299/Chny/2024
निर्धारण वर्ष/Assessment Year: 2016-17

No. 8729 Keelvani Primary Agricultural Vs. The Income Tax Officer,
Cooperative Credit Society Limited, Ward 2(1),
87/29, Keelvani (P.O.), Athani Via, Erode.
Anthiyur T.K., Tamil Nadu 638 502.

[PAN:AABAN2087J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. A. Vijayalakshmi, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri K. Rohan Raj, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 03.12.2024
घोषणा की तारीख /Date of Pronouncement : 19.12.2024

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 03.07.2024 passed by the Addl/JCIT (A), Thane for the assessment year 2016-17.

2. At the outset, the Id. AR Ms. A. Vijayalakshmi, CA challenged the action of the Id. CIT(A) in dismissing the appeal by refusing to condone the delay of 1517 days in filing the appeal on which 716 days comes within the ambit of exclusion provided by the Hon'ble Supreme Court in

view of Covid Pandemic-19 for the period from 15.03.2020 to 14.03.2021. She submits that the assessee does not have qualified Accountant to look after the proceedings. Further she submits that the assessee society is located in remote area of Erode district. The Tamil Nadu State Accounting and Taxation Services Co-operative Society were formed to look after the taxation matters of the Co-operative Societies. The Member has taken initiative and identified the pending proceedings of the assessee and due to the above process; there was a delay before the Covid Pandemic-19 period. She further submits that the Id. CIT(A) has not adjudicated the issue raised by the assessee on merits.

3. The Id. DR Shri K. Rohan Raj, Addl. CIT relied on the order of the Id. CIT(A).

4. After hearing both the parties, we note that assessment was completed under section 143(3) of the Income Tax Act, 1961 ["Act" in short] dated 24.12.2018 against which the assessee preferred an appeal before the Id. CIT(A) with a delay of 1517 days out of which 716 days delay comes within the ambit of exclusion provided by the Hon'ble Supreme Court in view of Covid Pandemic-19 for the period from 15.03.2020 to 14.03.2021. The Id. CIT(A) in para 5.2.1 of the impugned order, discussed the issue of exclusion of period of limitation falling

between 15.03.2020 and 28.02.2022 and held the appeal of the assessee does not fall within the period where the Hon'ble Supreme Court granted relaxation. We agree with the said finding of the Id. CIT(A) as the limitation to file assessee's appeal before the Id. CIT(A) expired on 23.01.2019 and the appeal was filed on 22.05.2023, there is delay of 1517 days . Therefore, in this regard, we find no infirmity in the order of the Id. CIT(A) and the assessee is liable to explain the delay of 1517 days.

5. Before us, the Id. AR submits that the assessee is an agricultural co-operative credit society having members of marginal farmers and situated in remote place at Athani via, Anthiyur of Keelavani P.O. and this fact was not disputed by the Id. DR. The Id. AR vehemently argued that the assessee has fair case in getting allowance of deduction under section 80P of the Act and there was no opportunity for the assessee before the first appellate authority. Further, she drew our attention to para (ix) at page 5 of the assessment order and submits that the Assessing Officer particularly did not grant the allowance of deduction under section 80P of the Act only for the reason that there was no finality in the case of Ammapet PACB Ltd. which is pending before the Hon'ble High Court of Madras. The Id. AR drew our attention to the decision dated 06.12.2018

and submits that the Hon'ble High Court of Madras in the case of PCIT v. M/s. S-1308 Ammapet Primary Agricultural Cooperative Bank Ltd. in TCA No. 882 and 891 of 2018 confirmed the order of the ITAT in allowing deduction under section 80P of the Act. Though the decision of the Hon'ble High Court of Madras was available as on the date of the impugned order, but, however, the Id. CIT(A) not considered as the appeal was dismissed *in limine* without going into merits of the case. Therefore, taking into consideration the facts and circumstances of the case, we deem it proper to remand the matter to the file of the Id. CIT(A) for fresh consideration with a direction to condone the delay and decide the issue on merits in terms of the decision of the Hon'ble High Court of Madras in the case of PCIT v. M/s. S-1308 Ammapet Primary Agricultural Cooperative Bank Ltd. and pass order in accordance with law.

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

Order pronounced on 19th December, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 19.12.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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