

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.218/NAG./2024 [E-APPEAL]
Assessment Year 2018-2019

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| Gimatex Kamgar Karmachari Pat Sanstha, Dal Mill Gate RA Mandir Ward, Hinganghat at Hinganghat, WARDHA. PIN - 442 301. PAN AACAG7498K Maharashtra. | vs. | The Income Tax Officer, Ward-2, ITO Bldg., WARDHA. Maharashtra. |
| (Appellant) | | (Respondent) |

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| For Assessee : | Shri Ganesh Kakani, C.A. |
| For Revenue : | Shri Abhay Y. Marathe, Sr. DR |

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| Date of Hearing : | 27.01.2025 |
| Date of Pronouncement : | 28.01.2025 |

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 28.02.2024 of the learned Addl./JCIT(A)-2, Gurugram, relating to assessment year 2018-2019.

2. Facts of the case, in brief, are that the assessee is a cooperative society registered under the law in the State of Maharashtra and engaged in providing credit facilities to it's

members. The assessee-society has filed its return of income on 29.03.2019 declaring income at Rs.NIL by claiming deduction u/sec.80P of the Act at Rs.22,96,865/-. The Assessing Officer/CPC, Bangalore, vide order dated 12.07.2019 passed u/sec.143(1) of the Act determined the total income of the assessee at Rs.22,96,865/- by disallowing the claim of deduction u/sec.80P of the Act.

3. Aggrieved by the order of the Assessing Officer/CPC, Bangaluru, the assessee carried the matter in appeal before the learned CIT(A) with a delay of 1332 days duly explaining the reasons. However, the learned CIT(A) was not satisfied with the reasons furnished for the delay of 1332 and dismissed the appeal of the assessee by not condoning the delay.

4. Aggrieved by the order of the learned CIT(A), the assessee is in appeal before the Tribunal.

5. Learned Counsel for the Assessee, during the course of hearing, submitted that the assessee society is consists of workers who are not educated and working as manual labourers and they are unaware of the intricacies of the Income Tax matters. As soon as the management became aware of the income tax proceedings initiated against them, they immediately taken steps to file the appeal before

the learned CIT(A). He submitted that the delay in filing the appeal before the learned CIT(A) is neither willful nor wanton. He accordingly submitted that one more opportunity may please be provided to the assessee society to substantiate its case as the assessee society has got fair chances to succeed in its claim of sec.80P deduction which is as per law. He submitted that he will an affidavit before the learned CIT(A) along with petition for condonation of delay and the learned CIT(A) be directed to condone the delay and decide the appeal on merits.

6. The Learned DR on the other hand, relied on the orders of the lower authorities and strongly opposed for condonation of delay.

7. I have heard the arguments of both the sides and perused the material on record. I find that the learned CIT(A) has dismissed the appeal of assessee on the ground of delay but not decided the appeal on merits as contemplated u/sec.250(6) of the Act, according to which, the learned CIT(A) has to give reasons for decision and adjudication thereof. In this connection, I note that the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) has held that when substantial justice and technical considerations are pitted against each other, cause of

substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. It has further been held that refusing to condone delay can result in a meritorious matter being thrown-out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. In view of the above decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji (supra) and considering the submission of the assessee that assessee society would be filing condonation application along with the affidavit before the learned CIT(A), I deem it fit and appropriate to direct the learned CIT(A) to condone the delay in filing of the appeal before him and decide the appeal as per fact and law. I hold and direct accordingly.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 28.01.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 28th January, 2025

VBP/-

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| 1. | The appellant |
| 2. | The respondent |
| 3. | The CIT(A), Nagpur concerned |
| 4. | The CIT, Nagpur concerned |
| 5. | The D.R. ITAT, Nagpur SMC-Bench, Nagpur |
| 6. | Guard File. |

//By Order//

True Copy

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.