

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.439/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)**

The Vazrapukotturu Primary Agricultural Cooperative Credit Society Limited D.No. 12-3-71, Gandhi Nagar Kasibugga, Palasa, Srikakulam [PAN: AADAT1897J] (अपीलार्थी/ Appellant)	v.	ITO – Ward – 1 Income Tax Office, Aaykar Bhavan Palakonda Road, Srikakulam – 532001 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, AR
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	02.01.2025
घोषणाकीतारीख/Date of Pronouncement	:	28.01.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)/Addl/JCIT (A)-2, Coimbatore, [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/APL/S/250/2023-24/1062944245(1) dated 19.03.2024 for the A.Y.2018-19 arising out of the intimation passed under section 143(1) of Income Tax Act, 1961 (in short 'Act') dated 16.10.2019.

2. At the outset, it is noticed from the appeal record that there is a delay of 157 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. AR drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under:

"1. The learned Commissioner of Income Tax (Appeals) passed the order on 19.03.2024. As such, the appeal against this order ought to have been filed on or before 18.05.2024. However, the appeal could be filed only on 22.10.2024 resulting in a delay of 157 days in filing the appeal.

2. Sri A. Jagadeswara Rao is the CEO of the appellant society and he is the authorized signatory. He is suffering from Ischemic heart disease and was not well during the relevant period. He was under treatment and bed rest as advised by the doctor during the period from 01.05.2024 to 30.06.2024. As such, he could not attend to any other affairs during this period.

3. The issue in the case of the appellant was that the deduction claimed u/s 80P was not allowed in the intimation passed on 16.10.2019 on the ground that the return of income for the relevant A.Y.2018-19 was not filed within the due date. The learned Commissioner of Income Tax (Appeals) dismissed the appeal on the same ground. The appellant was advised by its auditor that unless and until the delay in filing the return was condoned, it would not get any relief even before the hon'ble ITAT.

4. As soon as Sri A. Jagadeswara Rao recovered, he immediately took steps and filed application before the learned CCIT, Hyderabad u/s 119(2)(b) of the Act on 01.07.2024. The learned CCIT, Hyderabad passed the order on 25.09.2024 by condoning the delay in filing the return of income. At that period of time, the CEO Sri A. Jagadeswara Rao was not well again. As such, the appeal could not be filed before the hon'ble ITAT immediately after receiving the order of the learned CCIT (Exemptions). It took nearly one month for Sri A. Jagadeswara Rao to recover. As soon as

his condition improved, Sri A.Jagadeswara Rao took necessary steps and filed the appeal against the order of the learned Commissioner of Income Tax (Appeals) before the hon'ble ITAT on 22.10.2024.

5. Thus, the delay in filing the appeal was only due to the reasons mentioned above which were beyond the control of the appellant. The delay is neither intentional nor deliberate. Therefore, the appellant prays the hon'ble ITAT to kindly condone the delay and pass appropriate orders in the interest of rendering substantial justice.”

3. On perusal of the contents of the affidavit filed by the assessee and medical record as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 157 days. Therefore, we hereby condone the delay of 157 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Brief facts of the case are that, assessee is a Primary Agricultural Cooperative Credit Society filed its return of income on 31.03.2019 for the A.Y. 2018-19 admitting a total income of Rs. 22,40,060/-. Assessee also claimed deduction under section 80P of the Act for Rs. 22,40,060/-. It was noticed that assessee has filed the return of income on 31.03.2019 which is beyond the extended date for filing of return of income i.e., 30.09.2018. The return was summarily processed by CPC, Bangalore under section 143(1) of the Act by disallowing the deduction claimed by the assessee under section 80P of the Act.

5. Aggrieved by the intimation passed by CPC, Bangalore, assessee filed an appeal before Ld. CIT(A). Considering the similar submissions as made by the assessee before the Ld.AO, the Ld. CIT(A) dismissed the appeal of the assessee.

6. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us, by raising following grounds of appeal: -

“1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in deciding the appeal ex-parte.

3. The learned Commissioner of Income Tax (Appeals) ought to have held that the disallowance of deduction of Rs.22,40,060 claimed by the appellant u/s 80P in the Intimation u/s 143(1) of the Act was outside the scope of adjustments that can be made while processing the return of income and issuing the Intimation u/s 143(1) of the Act.


4. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) ought to have held that the appellant is eligible to claim the deduction of Rs.22,40,060 u/s 80P of the Act.

5. Any other grounds may be urged at the time of hearing.”

7. The only issue is with respect to disallowance of deduction of Rs.22,40,060/- claimed by the assessee under section 80P of the Act in the intimation passed under section 143(1) of the Act.

8. In this connection, at the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee has filed the condonation of

delay petition under section 119 (2)(b) of the Act citing the reasons for delay in filing the appeal. Ld.AR further submitted that the CCIT, Hyderabad, vide DIN & Order No. ITBA/COM/F/17/2024-25/1069102950(1) dated 25.09.2024 in accordance with CBDT Circular No. 13/2023 dated 26.07.2023 condoned the delay for filing the return of income for the A.Y. 2018-19. Copy of the approval order is extracted below: -

	GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX CCIT, HYDERABAD		
<p>To,</p> <p>THE VAZRAPUKOTTURU PRIMARY AGRICULTURAL COOPERATIVE CREDIT SOCIETY LIMITED 12-3-71 GANDHI NAGAR, KASIBUGGA PALASA SRIKAKULAM 532222, Andhra Pradesh India</p>			
PAN: AADAT1897J	Assessment Year: 2018-19	Dated: 25/09/2024	DIN & Order No : ITBA/COM/F/17/2024-25/1069102950(1)

Sir/ Madam/ M/s,

Subject: Condonation for filing ITR u/s 119(2)(b) - Approval Order

Sub: Application for condonation of delay under section 119(2)(b) of the Income Tax Act, 1961, in the case of M/s The Vazrapukotturu Primary Agricultural Cooperative Credit Society Ltd for the A.Y. 2018-19 (PAN: AADAT1897J) - Reg.

ORDER

1. The assessee, M/s The Vazrapukotturu Primary Agricultural Cooperative Credit Society Ltd , (PAN: AADAT1897) has filed a petition U/s.119(2)(b) of the I.T. Act for A.Y. 2018-19 in this office on 1/07/2024 requesting to condone the delay in filing return of income for the above assessment year. The assessee stated in his application that it is a primary Agriculture Cooperative Society formed under the provisions of the Cooperative Societies Act. The assessee further elaborated that the Statutory Audit compliance, as required under the Telangana Co-operative Societies Act, 1964 was complied, but the Return of Income could not be filed on time, as the Audit report was signed on 26/11/2018 and the same was received at a later date and therefore, there was a delay in filing income Tax Return. The assessee stated that the above circumstances are beyond its control i.e., delay in receiving the audit report and as such requested for favorable consideration of the application.

2. In the instant case, as already stated above, as the statutory audit report was signed on 26/11/2018 and therefore the assessee could not file the return of income for AY 2018-19 within the time prescribed under section 139(1) of the Income tax Act. The Board vide circular No 13/2023 contained in F No 173/21/2023-ITA-1 dated 26/07/2023 has issued guidelines for condonation of delay for filing of returns of income by Cooperative Societies claiming deduction u/s 80P of the Income tax

Note: If digitally signed, the date of digital signature may be taken as date of document.
IT TOWER, AC Guards, Masab Tank, HYDERABAD, Andhra Pradesh, 500004
Email: HYDERABAD.CCIT@INCOMETAX.GOV.IN.

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.
* DIN- Document Identification No.

Act from AYs 2018-19 to AY 2022-23. Due to the circumstances beyond the control and due to delay in receiving the Audit reports comprising of financial statements, which form crucial part for the purpose of filing the Income tax Return and getting its books of accounts duly audited, as per the provisions of sec 44AB of the Income tax Act.

3 After careful consideration of the submission of the assessee and the contents of the CBDT Circular dated 26/07/2023, I am of the view that in this case, the assessee had genuine hardships and the assessee could not file the Return of income within the timelines prescribed u/s 139(1). The request of the assessee, /s The Vazrapukotturu Primary Agricultural Cooperative Credit Society Ltd, (PAN: AA-DAT1897), for filing the return of income for A.Y. 2018-19 is hereby condoned accordingly.

Copy to The Pr. Commissioner of Income Tax-1, Visakhapatnam.

SURESH BATTINI
CCIT, HYDERABAD

9. Per contra, Ld. DR relied on the orders of the Ld. CIT(A).

10. We have heard both the sides and perused the material available on record. It is an admitted fact that the CCIT, Hyderabad has granted relief by condoning the delay to the assessee for belatedly filing the return of income for the A.Y.2018-19. In these circumstances, we are of the considered view that the assessee is entitled for claiming the deduction under section 80P of the Act amounting to Rs. 22,40,060/-. We therefore direct the Ld. AO / CPC, Bangalore to allow the deduction claimed by the assessee while filing the return of income for the A.Y. 2018-19 as the delay in filing return of income

is duly condoned by the CCIT, Hyderabad. Since the appeal is decided in favour of the assessee, Ground Nos. 2 and 3 raised by the assessee are not adjudicated.

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

Order pronounced in the open court on 28th January, 2025.

Sd/-
(के.नरसिम्हा चारी)
(K.NARASIMHA CHARY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 28.01.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखासदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **The Vazrapukotturu Primary Agricultural Cooperative Credit Society Limited**
D.No. 12-3-71, Gandhi Nagar
Kasibugga, Palasa, Srikakulam
2. राजस्व/ The Revenue : **ITO – Ward – 1**
Income Tax Office, Aaykar Bhavan
Palakonda Road, Srikakulam – 532001
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam