

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI ABY T. VARKEY, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं ITA No.2799/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)

Varadayampalayam Primary Agricultural Co-operative Credit Society #31, Kattampatty, SS Kullam Via Coimbatore Dist. 641 107.	बनाम/ Vs.	ITO Non-Corporate Ward-1(4), Coimbatore.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AABAK-0997-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Ms. R. Reshma (Advocate) - Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri Ashwin D. Gowda (Addl.CIT) - Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	27-01-2025
घोषणाकी तारीख / Date of Pronouncement	:	03-02-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of the order of learned Addl. / Joint Commissioner of Income Tax (Appeals), Thane [CIT(A)] dated 26-09-2024 in the matter of an intimation issued by CPC u/s 143(1) of the Act on 30-09-2020.
2. In the intimation u/s 143(1), the assessee was denied deduction u/s 80P for Rs.2.06 Lacs since the return of income was filed with a delay. The assessee filed return of income on 31-03-2019 which was processed u/s 143(1) on 30-09-2020 denying impugned deductions to the assessee. During appellate proceedings, the assessee relied on certain case laws

to submit that it would be entitled for impugned deductions. However, Ld. CIT(A) held that as per the provisions of Sec.80AC(ii), the return must have been filed within due date as prescribed u/s 139(1). The failure to do so would result into denial of deductions under Chapter VIA. In terms of sub-clause (ii) of Sec. 143(1)(a), the said claim would also be considered as an incorrect claim which was apparent from any information in the return of income and therefore, the deduction could be denied by CPC while processing return of income u/s 143(1). Reference was made to the decision of Hon'ble High Court of Madras in the case of **AA520 Veerappampalayam Primary Agricultural Cooperative Credit Society Ltd. (138 Taxmann.com 571)** to support the conclusion. Therefore, the denial of deduction was upheld against which the assessee is in further appeal before us.

3. The Ld. AR has referred to various decisions of Tribunal to submit that CPC has got the jurisdiction to make impugned disallowance only vide Finance Act, 2021. The Ld. Sr. DR, on the other hand, referred to the decision of Hon'ble High Court of Madras.

4. We find that this issue has been considered by Hon'ble High Court of Madras in the case of **AA520 Veerappampalayam Primary Agricultural Cooperative Credit Society Ltd. (138 Taxmann.com 571; 07-04-2021)**. The adjudication of Hon'ble Court was as under: -

6. Section 143 (1) (a) of the Act reads thus:—

143.(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

(a) the total income or loss shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the return;

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;

(iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;

(v) disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80 ID or section 80-IE, if the return is furnished beyond the due date specified under sub section (1) of section 139; or

(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made:'

7. The scope of an 'intimation' under section 143(1)(a) of the Act, extends to the making of adjustments based upon errors apparent from the return of income and patent from the record. Thus to say that the scope of 'incorrect claim' should be circumscribed and restricted by the Explanation which employs the term 'entry' would, in my view, not be correct and the provision must be given full and unfettered play. The explanation cannot curtail or restrict the main thrust or scope of the provision and due weightage as well as meaning has to be attributed to the purposes of section 143(1)(a) of the Act.

8. The provisions of section 80AC(ii) make it clear that any deduction that is claimed under Part C of Chapter VIA would be admissible only if the return of income in that case were filed within the prescribed due date. Thus no claim under any of the provisions of Part C of Chapter VIA would be admissible in the case of a belated return. There is no dispute on this position. The date of filing of a return of income would be apparent on the face of return and upon a perusal thereof, it would be clear as to whether the return is a valid return, having been filed within the statutory time limit, or a belated one. This is mechanical exercise and one that can be carried out by the CPC, very much within the scope of section 143(1)(a)(ii) of the Act.

9. The conduct of the petitioners is also relevant. Not only have the returns been filed belatedly but the petitioners have also chosen not to co-operate in the conduct of assessment. They are admittedly in receipt of the defect notices from the CPC, but have not bothered to respond to the same. The writ petitions have themselves been filed belatedly and after the elapse of more than six to eight months from the dates of impugned orders, in all cases. It is only when the Revenue has initiated proceedings for recovery by attachment of bank accounts have the petitioners approached this Court. This factor also strengthens my resolve that these are not matters warranting interference in terms of Article under section 226 of the Constitution of India, quite apart from the decision that I have arrived at on the legal issue.

10. These writ petitions are dismissed and connected Miscellaneous Petitions are also closed

The Assessment Year involved in the above bunch of appeals was 2018-19. The Hon'ble Court has held that the provisions of section 80AC(ii) makes it clear that any deduction that is claimed under Part-C of Chapter VIA would be admissible only if the return of income in that case were

filed within the prescribed due date. Thus, no claim under any of the provisions of Part-C of Chapter VIA would be admissible in the case of a belated return. It was further held that the date of filing of a return of income would be apparent on the face of return and upon a perusal thereof, it would be clear as to whether the return is a valid return, having been filed within the statutory time limit, or a belated one. This is mechanical exercise and one that can be carried out by the CPC, very much within the scope of section 143(1)(a)(ii) of the Act. Considering this binding judicial precedent, the adjudication of Ld. CIT(A) could not be faulted with.

5. Having said so, we find that remedial mechanism has been provided to the assessee to seek condonation of delay before appropriate authority u/s 119 of the Act. To enable the assessee to avail the same, for the said limited purpose, we restore the appeal back to the file of Ld. CIT(A) who shall consider the claim of the assessee in the light of condonation application, if any, as filed by the assessee which shall be done within a time of three months. If the assessee fails to prefer the same, the impugned disallowance as made by CPC would be sustained in the light of cited decision of Hon'ble High Court of Madras.

6. The appeal stand partly allowed for statistical purposes.

Order pronounced on 3rd February, 2025

Sd/-
(ABY T. VARKEY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 03-02-2025
DS

आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :

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