

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2796/Chny/2024
निर्धारण वर्ष/Assessment Year: 2018-19

K 121 Karapadi Primary Agricultural-Co-op. Society Ltd., 151-2, Near Nayampalayam Pirivu Bus Stop, Near Karapadi, Gobichettipalayam-638 459.	v.	The ITO, Ward-2(1), Erode.
[PAN: AABAK 4297 M]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Ms. Reshma, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Ashwin D. Gowda, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	27.01.2025
घोषणाकीतारीख /Date of Pronouncement	:	26.02.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as 'Ld.CIT(A)'), Delhi, dated 22.03.2023 for the Assessment Year (hereinafter referred to as 'AY') 2018-19.



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2. At the outset, it is noted that there is a delay of '521' days in filing of the appeal. In this regard, it is noted that the assessee is a Primary Agricultural Co-operative Society registered under the Tamil Nadu Cooperative Societies Act, 1983 and the assessee society is run by elected office bearers who are mainly from the rural/farming sector; and are not used to communication through e-mail, etc. According to assessee, the reason for the cause of the delay was because it was not aware of the passing of the impugned order by the Ld.CIT(A)/NFAC on 22.03.2023 for AY 2018-19; and when the assessee came to know about the dismissal of its appeal on 20.10.2024, then, immediately it filed the appeal before this Tribunal on 02.11.2024. The assessee pleaded for condoning the delay and cited the decision of the Hon'ble Supreme Court in the case of B. Madhuri Goud v. B. Damodar Reddy reported in [2012] 12 SCC 693, wherein it was observed that liberal view should be taken while considering the delay, so that substantial justice is achieved; and for technical consideration, substantial justice should not be sacrificed. In this regard, the assessee also cited the decision of the Hon'ble Madras High Court in the case of Alarcity Housing Ltd., reported in [2010] 327 ITR 139 (Madras HC) and several other decisions and prayed for condoning the delay.



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3. Per contra, the Ld.DR doesn't want us to condone the delay and want us to dismiss the appeal.

4. We have heard both the parties and perused the material available on record. We note that the assessee is a Agricultural Co-operative Society and it filed its return for AY 2018-19 on 12.07.2019 declaring NIL income. Assessee society is noted to have claimed deduction u/s.80P(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and its return was processed u/s.143(1) of Act vide intimation dated 12.07.2019 by making adjustment of Rs.2,60,570/- denying deduction u/s.80P(2) of the Act. As noted, the assessee is a Primary Agricultural Co-operative Society, which consists of members who are mainly farmers and the office bearers are selected from the members, who were not familiar with the internet/computer and not used to communication through e-mail, which resulted in not responding to the five (5) notices sent to their e-mail IDs, etc., which omission resulted in the passing of the impugned order dated 22.03.2023; and only in the third week of October, 2024, they came to know about the passing of the impugned order and then, they immediately filed the appeal within '15' days i.e. on 02.11.2024. Considering the explanation given (supra) and taking note of the fact that the assessee is a Primary Agricultural Co-operative Society and that they were not familiar with the computers, prevented them from looking in to



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the in-box of their email account, resulted in the communications sent by department unanswered from the side of assessee, which resulted in passing of ex-parte order because, they were in the dark about the passing of the impugned order, and ultimately it led to belated filing of Appeal before this Tribunal, which we are inclined to condone, since substantial justice should not be defeated for assessee's omission to inspect/use of the in-box of the e-mail etc., which led to the passing of the ex parte impugned order. And since no gross negligence or laches could be shown on the part of the assessee, considering the overall facts, and for the interest of justice and fair play, the delay caused are condoned and proceed to examine the appeal.

5. At the outset, the Ld.AR of the assessee pointed out that the impugned order is an ex parte order qua assessee. We note that the Ld.CIT(A) has not decided the grounds of appeal on merits as required u/s.250(6) of the Act. In such circumstances, for the ends of justice and fair play, we set aside the impugned order of the Ld.CIT(A) and restore the appeal back to his file with a direction to decide the appeal on merits after hearing the assessee. Ms. R.Reshma, Ld.AR of the assessee undertakes to file relevant documents/written submissions before the Ld.CIT(A) and the Ld.CIT(A) is directed to decide the grounds of appeal as per sub-section (6) of sec.250 of the Act.



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

Order pronounced on the 26th day of February, 2025, in Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th February, 2025.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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