

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.233/Chny/2025
निर्धारण वर्ष /Assessment Year: 2019-20

AA522 Kunnathur Velampalayam The Income Tax Officer,
Primary Agricultural Co-operative Vs. Ward-1(2),
Credit Society Ltd., Tirupur.
Ganapathipalayam,
Chinniampalayam Post,
Kunnathur, Tirupur – 638 103.
[PAN: AACAA 0772C]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Ms. A. Vijayalakshmi, C.A (virtual)
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anitha, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 26.03.2025
घोषणा की तारीख /Date of Pronouncement : 28.03.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2019-20 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 04.11.2024 in the matter of assessment framed by the Assessing Officer [AO] u/s. 147, r.w.s 144 r.w.s 144B of the Income-tax Act,1961 (hereinafter "the Act") on 24.01.2024.

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2. The only ground of appeal in this appeal of assessee is against confirming the disallowance of claim of deductions u/s. 80P of the Act made by the A.O on the ground that return was not filed within the due date, though the condonation petition u/s 119(2)(b) was pending before CCIT Coimbtore.

3. The assessee is a primary agricultural co-operative credit society registered under Tamil Nadu Co-operative Societies Act and has filled return of income at Nil after claiming deduction u/s 80P, in response to notice u/s 148 of the Act dated 26.04.2023. The A.O has disallowed the claim of deduction u/s.80P of the Act, in the order u/s. 147 r.w.s 144 r.w.s 144B of the Act as the assessee has not filled return within due date as mandated by section 80AC of the Act. Aggrieved, the assessee filed an appeal before Ld. CIT(A). However, the Ld. CIT(A) dismissed the appeal upholding the order of A.O.

4. The Ld. Authorized Representative (A.R) of the assessee has submitted that the assessee has filed petition for condonation of delay in filing return of income u/s. 119(2)(b) of the Act, which is pending before CCIT, Coimbatore. The Ld. AR has submitted that the Ld. CIT(A) was not justified to dismiss assessee's appeal without waiting for the order of the CCIT u/s.119(2)(b) of the Act. The Ld. AR therefore

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requested that the order of Ld. CIT(A) may be set aside and he may be directed to decide the appeal after decision of CCIT.

5. On the other hand, the Ld. Departmental Representative (DR), has relied on the orders of lower authorities.

6. We have heard the rival submissions, and perused the materials available on record. The A.O has disallowed the claim of Section 80P of the Act for the reason that assessee has not filled return within the due date. The assessee has explained that the delay in filing the return was due to the late receipt of the cooperative audit report and the delay in filing the income tax return was primarily attributed to the postponement in complying with the audit requirements u/s. 80 of the Tamil Nadu Co-Operative Society Act, 1983. The assessee has filed an application for condonation of delay before the CCIT, Coimbatore, which is awaited. The Ld. CIT(A), therefore was not justified to dismiss the appeal without awaiting the decision of CCIT u/s 119(2)(b) of the Act. We, therefore remit the matter back to the Ld. CIT(A) for *denovo* adjudication after receipt of decision of the CCIT on the assessee's condonation petition. In view of the above, the appeal filed by the assessee is allowed for statistical purposes only.

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

Order pronounced on 28th March, 2025.

Sd/-
(एबी टी. वर्की)
(**ABY. T. Varkey**)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(**Jagadish**)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 28th March, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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