

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री अमितभ शुक्ल, लेखा सदस्यके समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.Nos.60 & 61/Chny/2025
(निर्धारण वर्ष / Assessment Year: 2018-19 & 2019-20)

Kunnamalai Primary Agricultural Co-operative Bank Limited S-6041, 100, Kunnamalai Post, Paramathi Velur TK, Namakkal-637 203.	Vs	DCIT Ward-2, Namakkal.
PAN : AAAAK-2722-N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. G.Reddy Prakash, CA
प्रत्यर्थीकीओरसे/Respondent by	:	Mrs.Samantha Mullamudi, Addl. CIT

सुनवाईकीतारीख/Date of hearing	:	25.03.2025
घोषणाकीतारीख /Date of Pronouncement	:	28.03.2025

आदेश / O R D E R

PER MANU KUMAR GIRI, JM:

The captioned appeals filed by the assessee are directed against separate orders of the Ld. Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] both dated 31.07.2024 for Assessment Years 2018-19 & 2019-20. Since common issue is involved in both these appeals, they were heard together and disposed off by this common order.

2. The registry has noted delay of 101 days in filing the both appeals. Considering the reasons stated in the affidavits by Secretary of the Assessee society, we condone the delay and treat the reasons as 'sufficient cause' and admit both the appeals for adjudication.

3. Brief facts are as under:

The assessee is a Primary Agricultural Cooperative Credit Society with the objective of Supplying of fertilizers and other agricultural implements to its members, The assessee society also provides Credit facilities to its members of the society to improve their economic conditions. The assessee society had not filed the return of Income u/s 139(1) of the Act, as it was of the view that, as per Section 139 (1) of the Income Tax Act 1961, a person shall furnish income tax return only if his total income exceeded the maximum amount which is not chargeable to income-tax. According to Section 80(P), in the case of a co-operative society, there shall be deducted, the sums specified in sub section (2), in computing the total income of the assessee. Thus, if the total income computed after deduction under section 80P is nil such Co-operative societies need not file return of income u/s 139(1). Therefore, assessee's case was reopened to verify the cash deposit in the bank account. In response to the notice u/s 148 for the Assessment year 2018-19, the assessee society has filed the Return of Income on 29.08.2023 offering gross total Income of Rs.22,72,262/- and total income is Nil, after claiming deduction of Rs.22,72,262/- under section 80P of the Act. The assessee has received notices u/s 142(1) of the Act on various dates, and provided the details requested by the Ld. Assessing Officer. The assessee had also received the show cause notice 147 from the Ld. Assessing Officer, proposed to deny deduction claimed under section 80P of the Act, due to non-filing of return of income within the due date u/s 139(1) of the Act as per sec 80AC of the Act. However, the assessee has not filed any reply. Subsequently, Ld. AO had passed the assessment order u/s 143(3) r.w.s. 147 by

disallowing the deduction claimed u/s 80P of the Act amounting to Rs.22,72,262/- and raised a demand of Rs. 16,59,029/-. Hence, AO made additions for AYs 2018-19 & 2019-20.

4. Assessee further challenged both the orders of assessment passed u/s147 r.w.s. 144of the Act before the Id.CIT(A) who proceeded ex-parte and confirmed the orders of the AO on merits. Aggrieved by orders of the CIT(A), assessee filed these appeals before us.

5. Before us, the Id. Counsel for assessee submitted that the though CIT(A) has sent the notices, however, those notices were not received by the assessee. Therefore, assessee did not find occasion to file the written submissions/responses. Therefore, Id. counsel prayed that the assessee may be provided an adequate and proper representation to file evidence and documents, if any, to substantiate its case. The Id.DR stated that the assessee is habitual defaulter in appearing before the appellate authority hence no lenient view is to be taken in these cases and prayed for dismissal of the both appeals.

6. We have heard rival submissions and perused materials on record. Though, we concur with the submissions of Ld. Sr. DR, however, keeping in mind the principle of natural justice, we deem it fit to grant another opportunity of hearing to the assessee. We also find that assessee has not properly represented before the Id.CIT(A), despite notices for the reasons stated above. We also note that even before AO the order is ex-parte. Accordingly, the impugned orders are set aside and the appeals are restored back to the file of Ld. CIT(A) for *de novo* appeal hearings, after affording proper

opportunity of hearing to the assessee, subject to cost of Rs.2,000/- **each appeal**, which shall be deposited by the assessee within 30 days from the date of receipt of these orders to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the cost deposits in both cases will be furnished by the Assessee before Ld.CIT(A), who shall proceed for *de novo* appeal hearings, after affording proper opportunity of hearing to the assessee. The assessee is directed to substantiate its case with all evidence and documents regarding disallowance, if any, forthwith without any fail, failing which Ld.CIT(A) shall be at liberty to proceed with the appeal hearings as per law. The ld. counsel, who appeared also assured the bench that he will ensure that the assessee will prosecute these cases diligently.

7. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 28th March, 2025

Sd/-
(अमिताभ शुक्ला)
(Amitabh Shukla)
लेखा सदस्य / Accountant Member

Sd/-
(मनु कुमार गिरि)
(Manu Kumar Giri)
न्यायिक सदस्य/ Judicial Member

चेन्नई/Chennai,
दिनांक/Date:28.03.2025
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:
1.Appellant
2.Respondent
3. आयकर आयुक्त/CIT Chennai/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाइल/GF.