

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.3072 / Chny / 2024
निर्धारण वर्ष /Assessment Years: 2010-11

Ilayangudi Cooperative Primary
Agricultural and Rural Development
Bank Ltd,
No.1, Gnanitheru, Salaiyur,
Ilayangudi North, Ilayangudi S.O,
Sivaganga,
Tamil Nadu-630702.
[PAN: AAAAI0412K]

Income Tax Officer,
Ward-1,
Karaikudi

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Mr. T.Vasudevan, Advocate.

प्रत्यर्थी की ओर से /Revenue by

: Dr.I.Roopa, Addl, CIT

सुनवाई की तारीख/Date of Hearing

: 27.02.2025

घोषणा की तारीख /Date of Pronouncement

: 09.04.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA/APL/S/250/2023-24/1063139664(1) dated 22.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), for the assessment year 2010-11. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 22.03.2024 passed Addl/JCIT(A), Aurangabad.

2.0 It has been noted that there is a delay of 185 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee being a cooperative agricultural rural development bank, submitted that delay is attributable to change of guard at the secretary level and that the new incumbent was not aware of the appellate orders. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay save that costs be imposed for wasting the time of judicial authorities. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 The only issue in the present appeal is the decision of the Ld. First Appellate Authority in dismissing the appeal of the appellant assessee, without condoning the delay of 3984 days. The assessee had assailed order u/s 143(1) dated 10.02.2011 denying it benefit of deduction u/s 80P. The Ld. Counsel for the assessee submitted that the Ld. First Appellate Authority had summarily rejected its condonation request. Request was accordingly made to remand the matter to the Ld. CIT(A) for reconsideration by condoning the delay. The Ld. DR invited our attention to page 2 and 3 of the appellate order wherein the

reasons for non-condonation of the delay of 3984 days was vividly discussed. It was submitted that the assessee had intentionally written in Form 35, date of order u/s 143(1) as 23.01.2023 whereas it was actually 10.02.2011 (shown as 10.02.2012 in para 4 of appellate order). It was urged that the same was done to suppress the inordinate delay of 3984 days in filing of appeal before the Ld.First Appellate Authority. The Ld. DR accordingly argued that in this, given the in appropriate indulgence, there was no case for any clemency to the assessee. The Ld. DR further argued that the assessee was habitual defaulter and costs should be imposed upon the assessee for wasting the precious time of the court.

4.0 We have heard the rival submissions in the light of material available on records. It is an undisputed fact of the case that the Ld.CIT(A) has not adjudicated the matter on merits and has proceeded to dismiss the appeal in the light of alleged delay of 3984 days, noted by him in filing of appeal before him. We have also noted that he has imputed the said delay to the intentional incorrect reporting of order u/s 143(1) as 23.01.2023 whereas it was actually 10.02.2011 (shown as 10.02.2012 in para 4 of appellate order). The matter assumes serious significance if found true. As per para 5 of the order, the assessee had contested before the Ld.First Appellate Authority that the inordinate delay of 3984 days had occurred on account of shifting of its premises. We have also noted that the Ld.CIT(A) has given cryptic remarks on the

matter in para 6 and 7 of his order and proceeded to dismiss the appeal. It is not clear as to when the delay had occurred because of shifting of its premises and what prompted the assessee to manipulate and intentionally report wrong date of order u/s 143(1). We are therefore of the considered view that the matter deserves readjudication by the Ld. First Appellate Authority by properly marshalling the evidences, enquiry into the matter and passing a speaking order. We are conscious that as a Ld. First Appellate Authority, he possess wide powers before arriving at his conclusions in a case. Be that as it may be, we are of the view that ends of justice would be met if the case is set aside to the file of the Ld. CIT(A) for readjudication after giving opportunities of being heard to the assessee and to pass a speaking order. The Ld. CIT(A) shall reconsider at length into the reasons for the delay of 3984 days by the assessee in filing the appeal before him and if satisfied shall condone and readjudicate this appeal. The assessee shall be bound to comply to all the notices and details called by the Ld. CIT(A). Any non-compliance from the assessee side shall be adversely viewed. Accordingly, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5.0 We however also found force in the argument of the Ld. DR that assessee's repeated non-compliance has indeed caused loss of precious time of the statutory authorities. Consequently, the decision to remit the

matter to the Ld. AO is subject to payment of cost of Rs.5,000/- by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within 30 days of the receipt of this order. **Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.**

6.0. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 9th, April-2025 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 9th, April-2025.
KB/-

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Assessee:
2. प्रत्यर्थी/Revenue
3. आयकर आयुक्त/CIT - Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF