

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3035/Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

EG54K Ramanathapuram Primary Agricultural Co-Operative Credit Society Ltd.,
132/1, Kanjikovil Road,
Salangapalaym, Kavindapadi,
Erode – 638 455.
[PAN: AAAAE 4064H]

The Income Tax Officer,
Ward-2(1),
Erode.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S. Sridhar, Advocate (Erode)
(By virtual)

प्रत्यर्थी की ओर से /Respondent by

: Shri A. Sasikumar, CIT

सुनवाई की तारीख/Date of Hearing

: 16.04.2025

घोषणा की तारीख /Date of Pronouncement

: 26.05.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, Appeal, Addl/JCIT(A)-1, Surat [hereinafter "Addl. CIT(A)"] dated 30.09.2024 in the matter of assessment framed by Assessing Officer [AO] u/s. 143(3) of the Income-tax Act, 1961 (hereinafter "the Act") dated 27.08.2019.

2. The assessee is a primary agricultural co-operative credit society and filed its return of income on 03.03.2018 declaring total income at Nil after claiming deduction u/s. 80P of the Act. The A.O in the assessment order passed u/s. 143(3) of the Act has not allowed the claim of deduction u/s. 80P(2)(a) of the Act and assessed income at Rs.6,77,098/-. Aggrieved, the assessee preferred an appeal before Ld. Addl. CIT(A). The Ld. Addl. CIT(A) held that the appeal was filed after delay of 457 days including the delay of 281 days attributed to the Covid-19 pandemic. The Ld Addl. CIT(A) therefore did not condone the delay and dismissed the assessee's appeal. The Ld. Addl. CIT(A) after dismissing the appeal for not condoning the delay in filling the appeal has gone ahead and held that assessee is not eligible for 80P(2)(a) of the Act deduction without hearing the assessee.

3. The Ld. Authorized Representative (A.R) of the assessee before us has submitted that there was a genuine reason for delay in filing the appeal and the Ld. Addl. CIT(A) without providing opportunity had dismissed the appeal and therefore, he may be directed to condone the delay in filing the appeal of 457 days and adjudicated the appeal after providing proper opportunity .

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

5. We have heard the rival submissions, and perused the materials available on record. We find that the Ld. Addl. CIT(A) refused to condone the delay in filing the appeal of 457 days, which includes the delay of 281 days attributable to the Covid-19 pandemic. In our considered view, the Ld. CIT(A) was not justified in dismissing the purely on the ground of limitation without taking into account the reasons for the delay and without affording a proper opportunity of being heard to the assessee. In the interest of justice and considering the principles of natural justice, we are of the opinion that the delay ought to have condoned, and the appeal adjudicated on merits. Accordingly, we set aside the order passed by the Ld. Addl. CIT(A) and remit the matter to his file with a direction to condone the delay and decide the appeal afresh, after providing due opportunity of being heard to the assessee in accordance with law. The assessee is also directed to cooperate with the proceedings and appear before the Ld. Addl. CIT(A) on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

Order pronounced on 26th May, 2025.

Sd/-
(यस यस विश्वनेत्र रवि)
(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 26th May, 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