

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1333/Chny/2025
निर्धारण वर्ष/Assessment Year: 2022-23

DD 122 Harur & PR Patti TK GHSS & GHS Employees Co-op. Thrift & Credit Society, 1/16,Kanikaran Kottai, Sikkampatti V. Muthampatti Veppilaimithempatti, Dharmapuri-636 903.	v.	The ITO, Ward-1, Dharmapuri.
[PAN: AADAH 1485 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.T.S. Lakshmi Venkataraman, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Gauthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	15.07.2025
घोषणाकीतारीख /Date of Pronouncement	:	21.07.2025

आदेश / ORDER

PER MANU KUMAR GIRI, JM:

This appeal by assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals)-1, Office of the Commissioner of Income Tax (Appeal), Chandigarh, in Order No.ITBA/APL/S/250/2024-25/1074396763(1), dated 12.03.2025. The assessment was framed by the AO, CPC, Bengaluru, for the assessment



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year 2022-2023, u/s. 143(1) of the Income Tax Act, 1961 (in short 'the Act') vide order dated 13.12.2024.

2. The grounds of appeal raised by the assessee are reproduced as under:

1. On the facts and circumstances of the case the order of first appellate authority dated 12.03.2025 in dismissing the appeal of the appellant is bad in law and is not legally justified.

2. On the facts and circumstances of the case the first appellate authority is not justified in sustaining the disallowance of deduction claimed u/s 80P of the Act to an extent of Rs.96,84,770/- when the factual position is that the assessee is a Co-operative society eligible for deduction u/s 80P of the Act.

3. On the facts and circumstances of the case the first appellate authority is not justified in not accepting the fact, the appellant society is registered under The Tamil Nadu Co-Operative Societies Act, 1983 and the delay in filing the audit report for the AY 2022-23 occurred due to time gap between audit completion and receipt of audit report by Co-Operative Auditors. The belated filing of Tax Audit report and return of income is beyond the control of the appellant society which fact was not acknowledged by the first appellate authority.

4. On the facts and circumstances of the case the first appellate authority is not justified in not following the guidelines issued by CBDT in circular no.13/2023 dated 26th July 2023 wherein it has been held that if delay occurred due to getting the accounts audited under the respective State Laws, the same could be taken as a valid reason for condoning the delay.

5. In view of the above grounds and other submissions to be made at the time of Appeal hearing, the order U/S 250 passed by Commissioner of Income Tax (Appeals), ADDL/JCIT (A)-1, Chandigarh may be cancelled and justice rendered.

3. Brief facts of the case are that the Assessee filed its return of income on 20.10.2023 declaring total income at Rs. NIL and claimed deduction u/s 80P of the Act to an extent of Rs.96,84,770/-. The said return dated 20.10.2023 was processed u/s 143(1) on 13.12.2024 determining total income at Rs.96,84,770/-. In the said intimation order u/s 143(1) dated 13.12.2024 the CPC Bengaluru made disallowance of



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deduction u/s 80P on the ground that the return was not filed u/s 139(1) of the Act.

4. The assessee carried the matter in appeal before the Id. CIT(A). Since the assessee has not filed the return of income u/s 139(1) of the Act, the Id. CIT(A) confirmed the assessment and dismissed the ground raised by the assessee. On being aggrieved, the assessee is in appeal before the Tribunal.

5. By filing copy of the application under section 119(2) of the Act, the Id. Counsel for the assessee has submitted that the assessee has filed a condonation petition 13.07.2025 before the CBDT under section 119(2) of the Act to condone the delay in filing the return of income u/s 139(1).

6. We have heard the rival submissions, perused the materials available on record and gone through paper book, the orders of authorities below. In this case, since the return of income for the assessment year 2021-22 was not filed u/s 139(1) of the Act, the AO CPC, Bengaluru disallowed the claim of deduction under section 80P of the Act and the Id. CIT(A) confirmed the disallowance made under section 80P of the Act by the Assessing Officer.

7. Before the Tribunal, the Id. Counsel for the assessee has placed before us a copy of Application dated 13.07.2025 (which is endorsed by



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the counsel for the assessee) and argued that the assessee has filed an Application dated 13.07.2025 before the Chief Commissioner of Income Tax, for condonation of delay in filing the return u/s 139(1) of the Act hence, Id. CIT(A) should wait for the outcome of the Application dated 13.07.2025. In view of the fact that the assessee has filed an application for condonation of delay before the Chief Commissioner of Income Tax, Coimbatore citing Circular No.13/2023 dated 26.07.2023 and section 119(2)(b) of the Act, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to wait for the decision on the condonation petition filed by the assessee before the Chief Commissioner of Income Tax, Coimbatore and on receipt of the order, pass order in accordance with law.

8. In the result, the appeal filed by the assessee in ITA 1333/CHNY/2025 for assessment year 2022-2023 is allowed for statistical purposes.

Order pronounced on the 21st day of July, 2025, in Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**



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चेन्नई/Chennai,

दिनांक/Dated: 21st July, 2025.

TLN, Sr.PS

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