

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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.1497/Chny/2025
निर्धारण वर्ष/Assessment Year: 2020-21

K 1316 Muthur Primary Agricultural Co-op. Credit Society Ltd., 8/109, Kodumudi Road, Muthur, Kangayam, Tirupur-638 105.	v.	The ITO, Ward-1(4), Tirupur.
[PAN: AABAK 6894 J]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Ms. A. Vijayalakshmi, CA (Tirupur)
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Anitha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	16.07.2025
घोषणाकीतारीख /Date of Pronouncement	:	04.09.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee's Cooperative Society against the order of the Learned Commissioner of Income Tax (Appeals) dated 04.04 2025 for Assessment Year 2020-21.

2. At the outset, the Ld.AR of the assessee submitted that the Ld.CIT(A) has passed without considering the fact that the assessee's application for condonation of delay in filing of the Return of Income (RoI)



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is pending before the competent authority i.e. the Chief Commissioner of Income Tax (CCIT) and therefore, the Ld.CIT(A) ought not to have dismissed the appeal only on the ground that the assessee's claim u/s.80P of the Income Tax Act (hereinafter in short "the Act) cannot be claimed for belated filing of the RoI.

3. According to the Ld.AR, since the Ld.CIT(A) has dismissed the appeal of the assessee only on the ground that the assessee failed to file the RoI within the due date prescribed u/s.139(1)of the Act, the action of the Ld.CIT(A) need to be interfered, since the condonation application is still pending before the CCIT, Coimbatore. Therefore, he prayed for one more opportunity before the Ld.CIT(A).

4. On the other hand, the Ld.DR submitted that the assessee didn't bring to the notice of the first appellate authority that it had filed for condonation of delay for belated filing of return before the Ld.CCIT, and therefore, the Ld.CIT(A) has passed the impugned order rejecting the section 80P claim of the assessee. Therefore, the Ld.DR doesn't want us to give one more opportunity to the assessee.

5. Having heard both the parties and after perusal of the records, we find that the assessee is a Primary Agricultural Cooperative Credit Society incorporated under the Tamil Nadu Cooperative Society Act 1983. The main object of the society is providing financial assistance to its members.



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The assessee is noted to have filed its RoI on 31.03 2021 declaring 'nil' income after claiming deduction u/s.80P of the Act amounting to Rs.22,48,292/-. Later, the CPC Bangalore while processing the return of the assessee vide intimation u/s.143(1) of the Act by order dated 23.12.2021, rejected the claim on the ground that the assessee has filed ITR/RoI belatedly. On appeal, the Ld.CIT(A) taking note of the amended Section 80AC noted that the deduction shall not be allowed which are falling under Chapter-VIA under the heading "C-deduction in respect of certain incomes which includes Section 80P of the Act unless assessee furnishes the ITR before due date u/s.139(1)of the Act. And for doing so, she relied on the decision of the Hon'ble Kerala High Court in the case of Nileshwar Range kallu Chethu Vyavasaya Thozhilall Sahakarana Sangham v. CIT [2023] 152 taxmann.com 347 (Kerala) and thereafter, she concluded that deduction u/s.80P of the Act is not allowable since the return has been filed belatedly [not within the due date as specified u/s.139(1) of the Act] and therefore, she dismissed the appeal of the assessee.

6. The only contention before us is that assessee had filed a condonation application u/s.119(2)(b) of the Act before the Ld.CCIT, Coimbatore seeking condonation of the delay in filing of the ITR. Therefore, the Ld.AR's plea is that till the time the same is disposed of by



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the Ld.CCIT, the Ld.CIT(A) ought not to have disposed of the appeal. And for such a proposition, he relied on the following decisions of the Tribunal:

- i) K864 Murali Chennampatti Primary Agriculture Co-op Credit Society v. ITO in ITA Nos.516 & 517/Chny/2024
- ii) AA222 Kethelrave PACCS Ltd. V. ITO in ITA Nos.2762 & 2763/Chny/2024

7. We note that in this case the delay in filing the ITR has been attributed to the delay caused in finalization of the statutory audit conducted by the Government of Tamil Nadu Audit Department. Admittedly, the ITR has been filed by the assessee belatedly and not within the due date u/s.139(1) of the Act. But since the condonation petition has been filed before the competent authority/CCIT, for the interest of Justice and fair play, the impugned order of the Ld.CIT(A) is set aside and the appeal is restored back to her file and we direct the Ld.CIT(A) to pass order after the decision has been taken by the competent authority i.e. the CCIT, Coimbatore [on the condonation application filed by the assessee for condoning the delay in filing of ITR by due date].

8. In the result, appeal filed by the assessee is allowed for statistical purpose

Order pronounced on the 04th day of September, 2025, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य / **JUDICIAL MEMBER**



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चेन्नई/Chennai,
दिनांक/Dated: 04th September, 2025.

TLN

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

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