

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

ITA No.28/CTK/2015

(Assessment Year : 2010-2011)

Shri Ratikanta Kanungo, Plot No.1806, Chintamaniswar, Bhubaneswar, Odisha	Vs.	DCIT, Circle-2(2), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AGQPK 8502 P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri P.R.Mohanty AR
राजस्व की ओर से /Revenue by : Shri S.K.Bandyopadhyay, DR
सुनवाई की तारीख / Date of Hearing : 13/12/2017
घोषणा की तारीख/Date of Pronouncement 14/12/2017

आदेश / O R D E R

Per Shri N.S.Saini, AM:

This is an appeal filed by the assessee against the order of the CIT(A), Berhampur (Camp : Bhubaneswar), dated 24.10.2014.

2. The first grievance as projected in ground No.2 of the appeal of the assessee is that the CIT(A) has not allowed reasonable opportunity of hearing to the assessee before dismissing the appeal of the assessee.

3. From perusal of the order of the CIT(A), it is borne out that the date of hearing of the appeal was fixed on 12.09.2014 and 21.10.2014. The assessee failed to comply with the above notices of CIT(A). Therefore, the CIT(A) confirmed the order of the AO on the basis of the materials available on record.

4. Before us, the AR of the assessee has filed an undertaking to the effect that one more opportunity should be granted to the assessee to present its appeal before the CIT(A) and that he shall comply all the

requirements of the CIT(A) and will duly appear before the CIT(A) on the date of hearing to be fixed by him. It is submitted that the notice of hearing before the CIT(A) could not be complied with due to carelessness and fault of the Advocate.

5. Ld. DR, on the other hand, vehemently opposed the submissions of the AR of the assessee and submitted that no second innings should be allowed to the assessee for being defined in not complied with the notice of the CIT(A). He submitted that the assessee is a habitual defaulter as will be observed that the assessment order was also passed by the AO on 07.12.2012 u/s.144 of the Act ex-parte.

6. We have heard rival submissions, perused the orders of the lower authorities and materials available on record. It is not in dispute that the assessee failed to put an appearance before the CIT(A) on the date fixed of hearing of the appeal of the assessee. The assessee has admitted this in his letter filed before us during the course of hearing on 13.12.2017. It is also evident from record that the assessee did not file the details called for by the AO during the course of assessment proceedings and, hence, the order came to be passed u/s.144 of the Act by the AO. Keeping in view the above back ground of the case and also the prayer of the assessee that in the interest of rendering substantial justice, one more opportunity should be granted to the assessee, we are of the considered view that no loss will be caused to the revenue if one more opportunity is allowed to the assessee to present its appeal before the CIT(A). But, keeping in view the conduct of the assessee before the Assessing Officer

as well as the CIT(A), we direct the assessee to deposit **Rs.11000/- (Rupees Eleven Thousand Only)** by way of cost to the department within 15 days from the date of this order.

7. With the above direction, appeal of the assessee is restored back to the file of CIT(A) to dispose off the appeal of the assessee after allowing reasonable and proper opportunity of hearing to the assessee. It is made clear that the CIT(A) shall be at liberty to pass any order as he may deem fit in the matter, in case the assessee fails to cooperate with him on the dates of hearing fixed by him.

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

Order pronounced in the open court on 14/12/2017.

Sd/-
(PAVAN KUMAR GADALE)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(N. S. SAINI)
लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 14/12/2017

प्र.कु.मि/PKM, Senior Private Secretary

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. Shri Ratikanta Kanungo,
Plot No.1806, Chintamaniswar,
Bhubaneswar, Odisha
2. प्रत्यर्थी / The Respondent-
DCIT, Circle-2(2), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack