



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.130/CTK/2017
Assessment Year : 2009-2010

Cuttack Corporation, Bazar, Cuttack	Municipal Choudhury	Vs.	ACIT(TDS-II), Bhubaneswar.
PAN/GIR No.BBNCO 0195 G			
(Appellant)		..	(Respondent)

Assessee by : Shri T.K.Agarwalla, aR
Revenue by : Shri A. Tigga, DR

Date of Hearing : 26/04/ 2018
Date of Pronouncement : 26/04/ 2018

ORDER

Per N.S.Saini, AM

This is an appeal filed by the assessee against the order of the CIT(A), Cuttack dated 18.3.2016 for the assessment year 2009-2010.

2. The appeal filed by the assessee society is barred by limitation by 303 days. The assessee has filed condonation petition dated 8.3.2018 supported by affidavit for condoning the delay in filing the appeal. After going through the condonation petition, we find that the assessee had reasonable cause for not filing the appeal within the stipulated time. Ld D.R. did not have any objection for condoning the delay. We, therefore, condone the delay of 303 days in filing the appeal before the Tribunal and admit the appeal for hearing.



3. The sole issue involved in this appeal is that the CIT(A) erred in confirming the demand of Rs.13,64,474/- raised u/s.201(1)/201(1A) of the Income Tax act, 1961.

4. The facts in brief are that the Assessing Officer found that the assessee deductor had failed to deduct tax at source at the time of making payment to the various persons/concerns. The Assessing Officer required the assessee to explain as to why it shall not be treated as an assessee in default in terms of provisions of section 201(1) of the I.T.Act. After considering the submission of the assessee, the Assessing Officer has imposed Rs.13,64,474/- for non-deduction of tax u/s.201(1)/201(1A) of the Act.

5. Before the CIT(A), the assessee did not file appeal within the stipulated period. It was submitted by the assessee that the assessee is an urban local body and functionary of the State Government and for every stage of proceedings, it has to obtain approval and clearance process of which is a cumbersome affair and takes much time and, therefore, there was delay in filing the appeal. The above explanation of the assessee did not find favour by the CIT(A), who dismissed the appeal of the assessee on the ground of delay in filing the appeal.

6. Before us, Id A.R. submitted that sufficient opportunities have not been allowed to the assessee to furnish the details as regards non-deduction of tax. The contention of Id A.R. of the assessee is that the



matter may be restored back to the file of the Assessing officer with the direction to verify the records and to ascertain whether any deduction is at all required under the respective provisions of Income tax Act.

7. On the other hand, Id D.R. supported the orders of lower authorities.

8. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, the Assessing Officer has imposed Rs.13,64,474/- for non-deduction of tax u/s.201(1/201(1A) of the Act from the payments made to various parties.

9. As the assessee did not file appeal within the stipulated period, the CIT(A) did not condone the delay and dismissed the appeal and did not adjudicate the appeal on merits.

10. It was the contention of Id A.R. of the assessee that the assessee is an urban local body and functionary of the State Government and for every stage of proceedings, it had to obtain approval of the State Government. As there was delay in obtaining approval of Government by the assessee, the assessee filed the appeal beyond the prescribe period. We find force in the submission of the Id A.R. of the assessee and in order to render substantial justice, we set aside the order of the CIT(A) and direct to condone the delay and adjudicate the issue on merits after allowing reasonable opportunity of being heard to the assessee.



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

Order pronounced on 26 /04/2018.

Sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 26 /04/2018
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Cuttack Municipal Corporation, Choudhury Bazar, Cuttack
2. The respondent: ACIT(TDS-II), Bhubaneswar.
3. The CIT(A)- Cuttack
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack