



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

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.493/CTK/2017

Assessment Year : 2001-2002

G.Krishna Rao Subudhi, Prop. M/s. jagannath Enterprises, At: Gunupur, Rayagada.	Vs.	ITO, Rayagada Ward,. Rayagada.
PAN/GIR No.ACQPG 9772 K		
(Appellant)	..	(Respondent)

Assessee by : Shri J.M. Patnaik, AR
Revenue by : Shri A.K.Dutta, DR

Date of Hearing : 22/02/ 2019
Date of Pronouncement : 22 /02/ 2019

ORDER

This is an appeal filed by the assessee against the order of the Commissioner of Income Tax(Appeals)-1, Bhubaneswar dated 31.8.2017 for the assessment year 2001-02.

2. In Ground No.4 of appeal, the grievance of the assessee is that the CIT(A) dismissed the appeal of the assessee exparte without assigning any reason.

3. At the time of hearing, Id Authorised Representative of the assessee submitted that the appeal of the assessee was dismissed by the CIT(A) as the assessee failed to put in appearance on the

dates fixed for hearing. He submitted that the assessee was bed ridden due to fracture of his right leg for a long period and staying at Berhampur with his daughter. After being physically fit to resume his day to day activities, he stayed in his own house at Gunupur after September, 2017. The business activities of the assessee was stopped for a pretty long period. The notices sent by the CIT(A) were not served as he was not available in the address given in appeal memo. Ld A.R. also submitted medical certificate in respect of his non-appearance. He prayed that in the interest of justice, one more opportunity should be granted to the assessee to present its case before the CIT(A). He submitted that he personally undertakes to appear before the CIT(A) and produce all details and documents as and when called upon to do so.

4. Ld Departmental Representative submitted that when the assessee is not cooperating in disposing the appeal, then the CIT(A) has no option but to decide the appeal exparte and, therefore, the impugned order of the CIT(A) is quite correct and justified. However, in all fairness, Id D.R. submitted that if it is found just and proper to provide an opportunity of being heard to the assessee, then the department has no serious objection if the case is restored to the file of the CIT(A) for fresh adjudication.

5. On careful consideration of the submissions of the parties, I am of the considered view that the assessee is an old person and sustained fracture to his right leg for a long period and was staying at Berhampur with his daughter for treatment and care. Looking into the facts of serious illness, I am of the considered view that ends of justice would meet if the assessee is allowed an opportunity of hearing by the CIT(A) to explain his grounds filed before him in Form No.35. Therefore, this appeal is restored to the file of the CIT(A) with a direction that he shall decide the appeal afresh after affording reasonable opportunity of bearing to the assessee. If the assessee fails to co-operate with the CIT(A) in disposing the appeal, he will face the consequence and should not be allowed any further relief on this count that he was not allowed opportunity of hearing by the CIT(A). Therefore, I set aside the order of the CIT(A) and restore the appeal to his file for fresh adjudication after affording reasonable opportunity of hearing to the assessee. The assessee is directed to appear on 4.4.2019 and file all the details and documents before the CIT(A).

6. Since, the appeal is restored to the file of the CIT(A) for fresh adjudication, other grounds of appeal have become infructuous and not adjudicated upon.



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

Order pronounced on 22/02/2019.

Sd/-

(Chandra Mohan Garg)
JUDICIALMEMBER

Cuttack; Dated 22/02/209
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : G.Krishna Rao Subudhi, Prop.
M/s. jagannath Enterprises, At: Gunupur,
Rayagada.
2. The Respondent. ITO, Rayagada Ward,.
Rayagada
3. The CIT(A)-Bhubaneswar
4. Pr.CIT-1, Bhubaneswar.
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr. Pvt. Secretary,
ITAT, Cuttack