



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

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No.102/CTK/2022
Assessment Year : 2019-2020

BBG Metal Syndicate Pvt Ltd., At: Badambadi, Behind Traffic Tower, PO: Taltelenga Bazar, Cuttack	Vs.	DCIT, ASMNT Circle-2(1), Cuttack
PAN/GIR No.AAECB 4011 H		
(Appellant)	..	(Respondent)

Assessee by : Shri K.K.Bal, AR
Revenue by : Shri S.C.Mohanty, Sr. DR

Date of Hearing : 19 /10/2022
Date of Pronouncement : 19/10/2022

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 2.3.2021 in Appeal No.ITBA/NFAC/S/250/2020-21/1031139625(1) for the assessment year 2019-2020.

2. Shri K.K.Bal, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the Id CIT(A) had dismissed the appeal of the assessee on the ground of limitation. It was the submission

that the due date of filing of the appeal was 9.6.2020. The appeal has been filed on 29.8.2020. It was the submission that the Hon'ble Supreme Court had extended the limitation from 15.3.2020 to 28.2.2022. It was the submission that the said appeal has been filed within the extended period of limitation, the delay in filing of the appeal was liable to be treated as not delayed. It was the submission that the Id CIT(A) has not adjudicated the appeal of the assessee on merits. It was the prayer that the Id CIT(A) may be directed to dispose of the appeal of the assessee on merits.

4. In reply, Id Sr DR submitted that he had no objection if the issues in the appeal are restored to the file of the Id CIT(A) for adjudication on merits. It was the submission that the Hon'ble Supreme Court in the case of Checkmate Service Pvt Ltd vs CIT in Civil Appeal No.2833 of 2016 has already held the issue in favour of the revenue.

5. We have considered the rival submissions. As it is noticed that the Id CIT(A) has dismissed the assessee's appeal on technicality of delay and as it is noticed that the Hon'ble Supreme Court has extended the period of limitation and the appeal of the assessee has been filed within that period of limitation, we are of the view that the issue must be restored to the file of the Id CIT(A) for adjudication on merits. It is held that there is no delay in filing of the appeal before the Id CIT(A) in view of the decision of Hon'ble Supreme Court in extending the period of limitation. Consequently, the appeal is restored to the file of the Id CIT(A) for adjudication on merits.

6. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 19/10/2022.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

Cuttack; Dated 19/10/2022
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : BBG Metal Syndicate Pvt Ltd., At: Badambadi, Behind Traffic Tower, PO: Taltelenga Bazar, Cuttack
2. The Respondent: DCIT, ASMNT Circle-2(1), Cuttack
3. The CIT(A)-, NFAC, Delhi
4. Pr.CIT-, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

sd/-
(George Mathan)
JUDICIAL MEMBER

By order

Sr.Pvt.secretary
ITAT, Cuttack