



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

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

ITA No.149/CTK/2022

Assessment Year : 2017-18

Manoj Kumar Mohanty, Prop. M/s. Mahavir Filling Station, At: Subhadrapur, Gopalpur, Dist: Cuttack	Vs.	Pr. CIT, Bhubaneswar-1.
PAN/GIR No.AFRPM 2280 C		
(Appellant)	..	(Respondent)

Assessee by : Adjournment petition
Revenue by : Shri M.K.Gautam, CIT DR

Date of Hearing : 22/11/2022
Date of Pronouncement : 22/11/2022

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id Pr.CIT, Bhubaneswar-1, dated 1.2.2022 in Appeal No.ITBA/Rev/F/Rev5/2021-22/1039259782(1) for the assessment year 2017-18.

2. The appeal is delayed by 157 days for which, the assessee has filed condonation petition. The reasons given by the assessee are not found to be false. Consequently, the delay is condoned.

3. At the time of hearing, an advocate under the name of Partha Sarathi Mohanty filed an adjournment application. He was not in uniform. He does not have Voklatanama in the appeal. The Voklatanama is in the name of Shri Sandeep Kumar Jena, Duryodhan Rana and Abdul Muqid. Consequently, the adjournment application is rejected and the appeal disposed of.

4. Shri M.K.Gautam, Id CIT DR appeared on behalf of the revenue.

5. A perusal of the order of the Pr. CIT, Bhubaneswar-1 shows that notice in respect of proceedings u/s.263 had been issued to the assessee through e-mail through ITBA platform on three occasions. The first one was issued on 10.8.2021 fixing the date of hearing on 8.9.2021. On account of non-compliance, the second notice was issued on 10.11.2021 fixing the hearing on 26.11.2021. Again on account of non-compliance, third notice was issued on 14.12.2021 fixing the date of hearing on 23.12.2021. Again there has been non-compliance. Admittedly, once evidence had not been produced before the lower authorities, no evidence can be considered by the Tribunal. It is also not possible to restore the appeal to the file of the Pr. CIT as it is a matter under section 263 and proceedings would be hit by limitation if the same is restored. This being so, as the assessee has been non-compliant before the Pr. CIT and as the Pr. CIT has given adequate opportunity of being heard to the assessee in respect of proceedings initiated u/s.263, and as it is noticed that the

assessee has been non-compliant in the proceedings before the Pr. CIT, the appeal filed by the assessee stands dismissed.

6. In the result, appeal stands dismissed.

Order dictated and pronounced in the open court on 22/11/2022.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 22/11/2022
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Manoj Kumar Mohanty,
Prop. M/s. Mahavir Filling Station, At:
Subhadrapur, Gopalpur, Dist: Cuttack
2. The Respondent: Pr. CIT, Bhubaneswar-1
3. The CIT(A)- 1, Bhubaneswar
4. DR, ITAT, Cuttack
5. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack