



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

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

ITA Nos.55 & 56/CTK/2022

Assessment Years : 2012-13 & 2015-16

Orissa Diploma Engineers Service Association, At-7, Kharabela Nagar, Sri Aurobindo Marg, Bhubaneswar.	Vs.	ITO, Ward 1(2), Bhubaneswar
PAN/GIR No.AAATO 0709 N		
(Appellant)	..	(Respondent)

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

Date of Hearing : 7/02/2023
Date of Pronouncement : 7/02/2023

ORDER

Per Bench

These are appeals filed by the assessee against the separate orders of the Id CIT(A), NFAC, Delhi, dated 23.3.2021 & 24.3.2021 in Appeal No. ITBA/NFAC/S/250/2020-21/1031681469(1) for the assessment year 2012-13 and No. ITBA/NFAC/S/250/2020-21/1031712334(1) for the assessment year 2015-16.

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

3. The appeals for the assessment years 2012-13 and 2015-16 are barred by limitation by 335 days and 334 days. The assessee has filed condonation petitions dated 22 .4. 2022 for condoning the delay in filing the appeals giving the reasons. After considering the petitions and also hearing the parties, we are satisfied that there was reasonable cause in not filing the appeals on time. Therefore, we condone the delay and admit the appeals for hearing on merits.

4. It was submitted by Id AR that the assessee has claimed exemption u/s.12A in the return of income filed. However, in the intimation issued for the assessment years 2012-13 & 2015-16, the AO has not granted the benefit of exemption u/s.12A of the Act. It was the submission that it was due to the Corona period, the assessee was unable to represent its case before the Id CIT(A), which has resulted an exparte order. It was the prayer that the issues may be restored to the file of the AO for readjudication. It was the submission that the issue was squarely covered by the decision of the Hon'ble Karnataka High Court in the case of CIT vs Bharatiya Samskriti Vidyapith Trust (2014) 43 taxmann.com 295 (Karnataka).

5. In reply, Id Sr DR vehemently supported the orders of the Id CIT(A). It was the submission that the assessee has not represented its case before the Id CIT(A).

6. We have considered the rival submissions. A perusal of the orders of the Id CIT(A) admittedly show that the appeals have been dismissed on account of non-representation. A perusal of the intimation u/s.143(1) of the Act shows that there are factual mistakes in the intimation, which call for rectification. In any case, as the assessee has not been heard by any of the authorities below, in the interest of the justice, the issues in both the appeals are restored to the file of the AO for re-adjudication in respect of intimation u/s.143(1) of the Act.

7. In the result, both the appeals of the assessee stand partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 07/02/2023.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 07/02/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Orissa Diploma Engineers Service Association, At-7, Kharabela Nagar, Sri Aurobindo Marg, Bhubaneswar
2. The Respondent: ITO, Ward 1(2), Bhubaneswar
3. The CIT(A)-NFAC, Delhi,
4. Pr.CIT-, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack