



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK
(Through virtual hearing)**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA No.53/CTK/2023
Assessment Year : 2014-15

Ramachandra Prasad Jaiswal,, Matha Sahi, Station Bazar, College Square, Cuttack	Vs.	ITO, Ward 1(1), Cuttack
PAN/GIR No.ADLPJ 1508 L		
(Appellant)	..	(Respondent)

Assessee by : Shri Diganta Das, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 28 /06/2023
Date of Pronouncement : 28 /06/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), Cuttack dated 10.1.2020 in Appeal No.0564/2016-17 for the assessment year 2014-15.

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

3. The appeal is time barred by 1085 days. The assessee has filed condonation petition 28.2.2023 supported by affidavit, explaining the cause of delay. It is submitted that the due date of filing of appeal against the order of the Id CIT(A) before the Tribunal was 11.3.2020. However, the assessee instead of filing appeal before the Tribunal had filed writ petition before the Hon'ble Jurisdictional High Court of Orissa. The Hon'ble High Court vide its order dated 19.1.2023 was pleased to allow the assessee to withdraw the appeal with a direction that if such appeal is filed not later than 1st March, 2023 accompanied by an application for condonation of delay explain the delay on account of the present petition, it will be considered by the ITAT in accordance with law. In view of above, the assessee has filed appeal with condonation of delay. At the time of hearing, Id AR of the assessee reiterated the contentions stated in the condonation petition and prayed for condoning the delay. Id Sr DR did not have any objection. We accordingly, as per the direction of the Hon'ble High Court, condone the delay of 1085 days and admit the appeal for hearing.

4. Id AR submitted that the Id CIT(A) has passed the order without affording reasonable opportunity of hearing to the assessee. It was the submission that the Id CIT(A) has not considered the issues in the grounds of appeal on merits. He prayed that if one more opportunity is allowed, the assessee will appear before the Id CIT(A) to substantiate its case and file evidences, as required for adjudication of appeal.

5. Ld Sr DR submitted that several opportunities were given to the assessee by the Id CIT(A) and the assessee failed to comply the notices.

6. We have considered the rival submissions. A perusal of the impugned order shows that the Id CIT(A) has simply in one sentence dismissed the appeal. He has also not discussed the grounds on merits. Therefore, we are of the view that in order to impart substantial justice to the assessee, the matter requires to be restored to his file for fresh adjudication. Accordingly, we set aside the order of the Id CIT(A) and restore the appeal to his file for adjudication afresh. The assessee is directed to co-operate with the set aside proceedings before the Id CIT(A) and file the evidence, as deems necessary for early disposal of the appeal.

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

Order dictated and pronounced in the open court on 28/06/2023.

SD/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/06/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Ramachandra Prasad
Jaiswal,, Matha Sahi, Station Bazar, College
Square, Cuttack
2. The Respondent: ITO, Ward 1(1),
Cuttack
3. The CIT(A)- Cuttack
4. Pr.CIT-, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack