



**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.434/CTK/2019**  
Assessment Year : 2011-12

Sri Kailash Chandra Thatoi, At:Pabitradiha, Keonjargarh, Keonjhar	Vs.	DCIT, Circle -1(1), Cuttack
PAN/GIR No.ABLPT 0358 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri B.R.Panda, AR  
Revenue by : Shri S.C.Mohanty, Id Sr DR

**Date of Hearing : 26 /06/2023**  
**Date of Pronouncement : 26 /06/2023**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), Cuttack dated 29.5.2015 in Appeal No.059/2014-15 for the assessment year 2011-12.

2. Shri B.R.Panda, 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 on account of mis-communication between the assessee and his auditor, there was delay of 1584 days in filing of the appeal. It was the further submission that on account of this mis-communication also, substantial details, which ought to have been produced before the lower authorities, had not been produced. It was the prayer that the assessee has produced the evidences before the Tribunal. It was the prayer that the issues in the appeal may be restored to the file of the Assessing Officer for re-adjudication in the interest of justice.

4. In reply, Id Sr DR submitted that the delay should not be condoned. It was the submission that should the Tribunal restored the issue to the file of the AO, cost must be imposed on the assessee.

5. We have considered the rival submissions. The affidavit filed by the assessee in respect of the delay shows that the assessee was working as a Sr. Manager, in SAL Steel Ltd., at Gandhi Nagar of Gujarat. The order of the Id CIT(A) seems to have been received by the Chartered Accountant of the assessee at Cuttack. The order of the Id CIT(A) shows that none of the evidences have been produced before him nor before the Assessing Officer in respect of the various additions, which have resulted in the assessment order. A perusal of the paper book filed shows that substantial number of evidences produced before the Tribunal is in the form of fresh evidences. This being so, in the interest of justice, we are of the view that delays in filing of the appeal by the assessee is liable to be condoned insofar as the

affidavit filed by the assessee has not been found to be false. As the assessee has produced the fresh evidences which were not before the lower authorities, in the interest of justice, the issues in the appeal are restored to the file of the Assessing Officer for re-adjudication after granting the assessee adequate opportunity of being heard. Further, it is also directed that the submissions of Id Sr DR also carry weight insofar as the assessee should have been conscious in respect of tax notices. In these circumstances, it is directed that the assessee shall pay cost of Rs.1000/- under the head "others" and produce the challan before the Assessing Officer during the course of set aside assessment. The assessee is not entitled to claim the benefit of the cost of Rs.1000/- as tax, interest or penalty, in any of the assessment years.

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

Order dictated and pronounced in the open court on 26/06/2023.

Sd/-  
**(Rajesh Kumar)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 26/06/2023  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Sri Kailash Chandra Thatoi,  
At:Pabitradiha, Keonjhar, Keonjhar
2. The respondent:DCIT, Circle -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**