

**आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक**

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK**  
श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**(THROUGH VIRTUAL HEARING)**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**आयकर अपील सं/ITA No.146/CTK/2023**

**(निर्धारण वर्ष / Assessment Year : 2017-2018)**

Krushna Prasad Mohanty, Village : Iswarpur, PO: Balikuda, Dist : Jagatsinghpur	Vs	DCIT, Circle-1(1), Cuttack
PAN No. : <b>BGTPM 2823 F</b>		
<b>(अपीलार्थी / Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>निर्धारिती की ओर से / Assessee by</b>	:	Shri Natabar Panda, Advocate
<b>राजस्व की ओर से / Revenue by</b>	:	Shri S.C.Mohanty, Sr. DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	27/06/2023
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	27/06/2023

**आदेश / O R D E R**

**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 23.03.2023, passed in DIN & Oder No.ITBA/NFAC/S/250/2022-23/1050056853(1), for the assessment year 2017-2018.

2. It was submitted by Id AR that the Id CIT(A) was not justified in confirming the order of AO without granting reasonable opportunity of hearing to the assessee. It was also submitted that the Id.CIT(A) dismissed the appeal of the assessee on the ground of delay of 167 days in filing the appeal. It was submitted by the Id. AR that the delay in filing the appeal before the Id. CIT(A) was caused due to lockdown during the period of pandemic COVID-19. Accordingly, Id. AR submitted that the

delay may be condoned and the assessee may be allowed one more opportunity to furnish all the evidences for disposal of the appeal.

3. In reply, Id Sr DR submitted that proper opportunities were allowed as is evident from the impugned order. It was submitted that the order passed by the CIT(A) deserves to be upheld.

4. We have considered the rival submissions. On perusal of the impugned order it is found that the Id.CIT(A) has dismissed the appeal of the assessee on the ground of delay. During the course of hearing Id. AR drew our attention to the application dated 27.06.2020 filed before the Id. CIT(A) regarding condonation of delay, wherein it has been mentioned that due to the illness of family member, the assessee could not get time and also lockdown during the COVID-19 overcame the time limit to file the appeal in prescribed time limit. The Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 in SMW(C) No.3 of 2020 had taken Suo Motu cognizance of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals and all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws. Accordingly, the Hon'ble Supreme Court has excluded the period from 15.3.2020 to 2.10.2021 for condoning the delay in filing the appeal. Considering the difficulties during the pre-COVID period and the principles of reasonable approach as has been enunciated by the Hon'ble Supreme Court as also on account of the fact that the affidavit filed by the assessee is not shown to

be false, we condone the delay of 167 days in filing the appeal before the Id. CIT(A) by the assessee. We also observe that the Id CIT(A) has not afforded reasonable opportunity of hearing to the assessee and also allowed the assessee to furnish the evidences, as required for consideration of the facts in the appeal. Therefore, we are of the view that, in the interest of justice, the Id. CIT(A) is directed to decide the appeal of the assessee on merits after allowing adequate opportunity to the assessee. Consequently, the appeal is set aside and restored to the file of the Id CIT(A) for fresh adjudication on merits.

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

Order dictated and pronounced in the open court on 27/06/2023.

**Sd/-**

(राजेश कुमार)

**(RAJESH KUMAR)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-**

(जार्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

**कटक** Cuttack; दिनांक Dated 27/06/2023

*Prakash Kumar Mishra, Sr.P.S.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-  
Krushna Prasad Mohanty,  
Village : Iswarpur,  
PO: Balikuda,Dist : Jagatsinghpur
2. प्रत्यर्थी / The Respondent-  
DCIT, Circle-1(1), Cuttack
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कटक** / DR,  
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**(Assistant Registrar)**

**आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack**