



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
GIRISH AGRAWAL, ACCOUNTANT MEMBER**

S.A. No.4/CTK/2023

ITA No.21/CTK/2023

Assessment Year : 2016-17

Mr Dilip Kumar Nanda, Plot No.A-20, HIG Duplex, Phase-II, Pokhariput, PO: Palashpalli, Bhubaneswar.	Vs.	ITO, Ward-2(4), Bhubaneswar
PAN/GIR No.AAFPN 4306 B		
(Appellant)	..	(Respondent)

Assessee by : Shri Natabar Panda, AR
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 17/07/2023
Date of Pronouncement : 17/07/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 10.11.2022 in Appeal No.ITBA/NFAC/S/250/2022-23/1047218704(1) for the assessment year 2016-17.

2. Shri Natabar 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 the Id CIT(A) has dismissed the appeal of the assessee without giving adequate opportunity. It was the submission that even the Assessing Officer has passed the assessment order on the basis of R.I. report regarding the kism of the land, which was not confronted to the assessee. It was the prayer that if another opportunity is given to the assessee, he would adduce all such evidences before the Id CIT(A) for proper adjudication of the appeal.

4. In reply, Id Sr DR supported the order of the Assessing Officer and Id CIT(A). It was the submission that even the Id CIT(A) has afforded several opportunities but the assessee did not respond to the same.

5. We have heard the rival submissions. Perusal of the impugned order of the Id CIT(A) clearly shows that the Id CIT(A) has given four opportunities on 29.1.2021, 31.5.2021, 11.11.2021 and 22.4.2022 as is evident from his order but the assessee could not represent his case by uploading written submission alongwith supporting documents. Id AR submitted that the type of the disputed land is 'itabhati' and not homestead land, hence, it can be treated as agricultural land. No opportunity was allowed to the assessee to confront as to whether the land is agricultural land or homestead land. It is on the basis of the R.I. report, which is behind the back of the assessee. No doubt the non-submissions of the documents were attributable to the assessee. However, before us, Id AR undertakes that if one more opportunity is allowed, the assessee would

produce all such evidences, as are required by the Id CIT(A) for fresh adjudication of the appeal. Considering the non-compliance made by the assessee before the Id CIT(A), a cost of Rs.1000/- is being levied on the assessee. Subject to the assessee paying the cost of Rs.1,000/- under the head "others" to be paid online and production of the receipt, the issues in this appeal are restored to the file of the CIT(A) for fresh adjudication. The assessee shall not be entitled to the benefit of the cost as tax, fees, penalty or any other form in any of the assessment years.

6. The assessee has filed stay petition being S.A. No.4/CTK/2023 to stay the demand raised on the assessee on the ground that the assessee is suffering from acute financial hardship. As we have restored the issue to the file of the Id CIT(A) while adjudicating the quantum appeal, the stay petition filed by the assessee stands dismissed.

7. In the result, Stay petition filed by the assessee is dismissed and the appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 17/07/2023.

SD/-
(Girish Agrawal)
ACCOUNTANT MEMBER
Cuttack; Dated 17/07/2023
B.K.Parida, SPS (OS)

SD/-
(George Mathan)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant : Mr Dilip Kumar Nanda, Plot No.A-20, HIG Duplex, Phase-II, Pokhariput, PO: Palashpalli, Bhubaneswar
2. The Respondent: , ITO WARD-2(4), 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