



**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.222/CTK/2023
Assessment Year : 2017-18

Nitushree Patra, At: Paniapada, PO: Aruinodaya Market, Link Road, Cuttack	Vs.	DCIT, ASMNT Circle 2(1), Cuttack
PAN/GIR No.AGKPP 1787 B		
(Appellant)	..	(Respondent)

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

Date of Hearing : 21/08/2023
Date of Pronouncement : 21/08/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi, dated 17.11.2022 in Appeal No.ITBA/NFAC/S/250/2023-24/1047472507(1), in the matter of assessment under section 144 of the Act for the assessment year 2017-18.

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 appeal is time barred by 144 days. The assessee has filed condonation petition dated 9.6.2023 supported by an affidavit alongwith medical prescription for condoning the delay. It is stated that though the order of the Id CIT(A) is 17.11.2022 but there was no physical service of the order to the assessee. It is stated that the assessee being a lady was suffering from diabetic related neuro problem and also under treatment from 5.12.2022 to 25.5.2023. When the assessee gets partial relief and started to recover from the illness, she could know that the passing of the order of the Id CIT(A) on 8.6.2023. Thereafter, she contacted her counsel to prepare the appeal. It was in backdrop that the appeal was delayed by 144 days. It is stated that the delay be condoned. Ld Sr DR has no objection to the prayer of the assessee. Therefore, we condone the delay of 144 days in filing the appeal and decide to hear the appeal on merits.

4. It was submitted by Id AR that the Id CIT(A) has passed the exparte order without giving an opportunity to the assessee, which is gross violation of natural justice. He submitted that the Id CIT(A) has not also passed the order on merits. He prayed that if one more opportunity is granted, the assessee would assist the Id CIT(A) in disposal of the appeal.

5. In reply, Id Sr DR submitted that several opportunities have been provided by the Id CIT(A) as is evident from the impugned order. Hence, no purpose would be served if the matter is restored to the file of the Id CIT(A). He submitted that before the Assessing Officer also, the assessee

did not respond to the notices, therefore, the assessment order has been passed ex parte u/s.144 of the Act.

6. We have heard the rival submissions. A perusal of the impugned order shows that the CIT (A) has dismissed the appeal of the assessee ex parte as the assessee failed to appear before him without considering the issue on merits. We also observe that the Assessing Officer has passed order u/s.144 of the Act. Before us, Id AR has prayed that one more opportunity be granted to substantiate its case. Therefore, in the interest of justice, we set aside the order of the CIT (A) and restore the appeal to the file of the Assessing Officer and direct him to pass a fresh assessment order after allowing proper opportunity to the assessee in accordance with law.

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

Order dictated and pronounced in the open court on 21/08/2023.

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 21/08/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. Appellant: Nitushree Patra, At: Paniapada, PO:
Arudinodaya Market, Link Road, Cuttack
2. The Respondent: DCIT, ASMNT Circle 2(1),
Cuttack
3. The CIT(A), NFAC, Delhi
4. Pr.CIT-, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack