



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.78/CTK/2023
Assessment Year : 2017-18

Sarbeswar Routray, Plot No.745, Jharpada, PO:Laxmisagar, Bhubaneswar.	Vs.	Income Tax Officer, Ward-3(5), Bhubaneswar.
PAN/GIR No.AIWPR 0796 A		
(Appellant)	..	(Respondent)

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

Date of Hearing : 11/09/2023
Date of Pronouncement : 11/09/2023

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A)-2, Bhubaneswar, dated 22.8.2022 in Appeal No.Bhubaneswar-2/10261/2019-20 for the assessment year 2017-18.

2. Shri Natabar Panda, Id AR appeared for the assessee and Shri S.C.Mahanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that there is delay of 143 days in filing the appeal before the Tribunal, for which, the assessee has filed condonation petition, wherein, he submitted that he was under medical treatment. The

assessee has also produced the medical certificates to this effect. As it is found that the evidences provided by the assessee are substantiated and same have not been found to be false, the delay of 143 days in filing the appeal is condoned and same is disposed of on merits.

4. It was submitted by Id AR that the assessee, a retired government employee was working in the Soil Conservation Department of Govt. of Odisha and receiving an income about Rs.6.8 lakhs per annum. It was the submission that during the relevant assessment year, the assessee had received certain loans and advances from the friends and relatives for conducting the marriage of his son. It was the submission that the monies in the form of SBN currency received during the months of August, 2016, November, 2016 and December, 2016 had been deposited in the bank account of the assessee. It was the submission that the total deposits were to the extent of Rs.11 lakhs. It was the submission that on account of demonetization, the return of the assessee came to be processed and the assessee was unable to produce the persons before the Assessing Officer for examination. It was the submission that consequently, the Assessing Officer treated the deposits as unexplained income of the assessee and brought the same to tax. It was the submission that on appeal, the Id CIT(A) confirmed the assessment. It was the prayer that the issues in the appeal may be restored to be file of the Assessing Officer and the assessee would be able to substantiate the loans and advances taken from the

friends and relatives and deposited in the bank account of the assessee, if an opportunity is granted.

5. In reply, Id Sr DR submitted that the assessee had retired a couple of months before the year end. It was the submission that the assessee has been unable to prove the source of deposits in the bank account. It was the submission that it was the duty of the assessee to prove the cash deposit and the assessee having failed to do so, the addition as made by the AO and confirmed by the Id CIT(A) is liable to be upheld.

6. I have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessment in the assessee's case was initiated on 24.9.2018 and after three hearings, the assessment has been completed. A perusal of the statement recorded from the assessee shows that the assessee retired in the month of January, 2017. In the course of statement, the assessee has been repeatedly claiming that the amounts are nothing but monies taken from the friends and relatives. He also mentions in the course of statement that he has provided the details of identity and PAN of the persons. In these circumstances, in the interest of justice, I am of the view that the issues in this appeal must be restored to the file of the Assessing Officer and the assessee must be granted adequate opportunity to produce the details to substantiate his claim and I do so. In view of above, the issues are restored to the file of the Assessing Officer for

readjudication after granting the assessee adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 11/09/2023.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 11/09/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Sarbeswar Routray, Plot No.745, Jharpada, PO:Laxmisagar, Bhubaneswar
2. The Respondent: Income Tax Officer, Ward-3(5), Bhubaneswar
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT-2, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack