



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.247/CTK/2023

Assessment Year : 2017-18

Gyanendra Panda, At: Pratappur, PO: Barasahi, Dist: Mayurbhanj	Vs.	ITO, Ward-2, Baripada
PAN/GIR No.APDPP 0807 L		
(Appellant)	..	(Respondent)

Assessee by : Shri Sandeep kumar Jena, Adv
Revenue by : Shri Charan Dass, Sr DR

Date of Hearing : 18/10/2023

Date of Pronouncement : 18/10/2023

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 12.10.2022 in Appeal No.ITBA/NFAC/S/250/2022-23/1046268143(1) for the assessment year 2017-18.

2. Shri Sandeep Kumar Jena, Id AR appeared for the assessee and Shri Charan Dass, Id Sr DR appeared for the revenue.

3. The appeal filed by the assessee is delayed by 219 days. The assessee has filed necessary condonation petition alongwith affidavit,

wherein, the assessee has mentioned about ignorance of law. It was submitted by Id AR that the assessee is trading in mobile GSM SIM cards and recharge vouchers. It was the submission that the assessee had never filed his return of income but on account of large transaction in the bank account of the assessee, notice had been issued to the assessee by the Income tax Department. The assessee was absolutely unaware of the complication of the income tax matter. It was the submission that the assessee had not cooperated in the assessment proceedings and the Assessing Officer had obtained bank account of the assessee by issuing notice to the bank. It was the submission that the Assessing Officer had consequently made the addition estimating the income of the assessee at 8% of the total deposits in the bank account. It was the submission that the bank account itself showed deposit and payments to various telecom operators. It was the submission that the assessee had filed appeal before the Id CIT(A), unfortunately, there was no representation before him. Consequently, there was an ex parte order both at the level of the Assessing Officer and Id CIT(A) and on account of ignorance of law, the assessee had no knowledge about filing of the appeal before Id CIT(A) and it was subsequently when he was given proper legal advice, the appeal was filed to the Tribunal. It was the submission that the delay in filing of the appeal may be condoned and the issues be restored to the file of the AO and Id AR undertakes to cooperate with the assessment proceedings.

4. In reply, Id Sr DR vehemently opposed to the condonation of delay. In respect of merits, Id Sr DR vehemently supported the order of the AO and Id CIT(A).

5. I have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessee is a small time trader in mobile GSM SIM cards and recharge vouchers in Pratappur, Barsahi, which is a remote area in the district of Mayurbhanj. It is an admitted fact that the assessee has not cooperated in the assessment proceedings. The fact that the Assessing Officer has in his possession the bank account of the assessee should have also considered the fact that the payments have been made from the said bank account to various mobile service providers. The bank account being available with the AO, he should have easily computed the income of the assessee for the relevant assessment year. However, the Assessing officer has decided to estimate the income, which is not in the right principles. Ignorance of law, especially in village area, is a known fact and ignorance of taxation law even in educated society is quite common. This being so, in the interest of justice, the delay of 219 days in filing of the appeal is condoned and the issues in this appeal are restored to the file of the Assessing Officer to redo the assessment after granting the assessee adequate opportunity being heard. The assessee shall cooperate in the set aside assessment proceedings, failing which, the AO is at liberty to pass the assessment order as per law.

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

Order dictated and pronounced in the open court on 18/10/2023.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 18/10/2023

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Gyanendra Panda, At:
Pratappur, PO: Barasahi, Dist: Mayurbhanj
2. The Respondent: ITO, Ward-2, Baripada
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