



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.257/CTK/2023

Assessment Year : 2017-18

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| Mr Trilochan Nayak, At: Niladrivihar, Bhadrak By- pass Road, Dsit: Bhadrak | Vs. | ITO, Ward, Bhadrak |
| PAN/GIR No.ABZPN 0747 P | | |
| (Appellant) | .. | (Respondent) |

Assessee by : Shri Bivash Ranjan Panda, Adv

Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 13/11/2023

Date of Pronouncement : 13/11/2023

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi, dated 1.7.2022 in Appeal No.ITBA/NFAC/S/250/2022-23/1043705466(1) for the assessment year 2017-18.

2. Shri Bivash Ranjan 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 original assessment came to be completed u/s.144 of the Act as the assessee was not well and could not cooperate in the assessment proceedings. It was the submission that consequently, the Assessing Officer had made the addition @ 8% of the total turnover. It was the submission that on appeal, Id CIT(A) without

considering the explanation of the assessee confirmed the assessment. It was the further submission that the AO had also made addition towards unexplained cash deposits representing the amounts deposited by the assessee during the demonetization period of Rs.2,04,000/-. It was the submission that the addition as made by the AO and confirmed by the Id CIT(A) may be deleted and income of the assessee be estimated @ 4% of the total turnover. It was the further submission that the appeal of the assessee is delayed by 336 days, for which, the assessee has filed condonation petition supported by an affidavit, wherein, it is mentioned that the delay was on account of health issues. It was the submission that the assessee was suffering from acute asthma and was bed ridden.

4. In reply, Id Sr DR vehemently opposed the condonation petition. It was the submission that one year delay has taken place. It was the submission that the assessee has been non-cooperative in the assessment proceedings and the appeal is liable to be dismissed.

5. I have considered the rival submissions. The assessee has filed condonation petition alongwith necessary affidavit and the medical certificate. The medical certificate produced by the assessee has not been shown to be false. This being so, the delay of 336 days in filing of the appeal by the assessee stands condoned. A perusal of the facts in the present case shows that the assessee has not produced any evidence before the AO or Id CIT(A). The assessee has not filed his income tax

return before the Assessing Officer. The fact that the assessee's return filed in the earlier years and that his accounts are maintained in earlier years shows that the assessee should have maintained the accounts in the relevant assessment year. This being so, in the interest of justice and to allow the assessee another opportunity to rectify its mistakes, the issues in this appeal are restored to the file of the AO for readjudication after granting the assessee adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 13/11/2023.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 13/11/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Mr Trilochan Nayak, At:
Niladrivihar, Bhadrak By-pass Road, Dsit:
Bhadrak
2. The Respondent: ITO, Ward, Bhadrak
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