



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.72/CTK/2024**

Assessment Year : 2012-13

Santosh Kumar Rout, Prop. S.R.Suppliers Biranilakanthapur, Biranilakanthapur, Thakurpatna, Kendrapara- 754250	Vs.	Income Tax Officer, Kendrapara Kendrapara	Officer, Ward,
PAN/GIR No.AIAPR 2006 H			
<b>(Appellant)</b>	..	<b>( Respondent)</b>	

Assessee by : Shri K.K.Bal, Adv  
Revenue by : Shri S.C.Mohanty, Id Sr DR

**Date of Hearing : 29/04/2024**  
**Date of Pronouncement : 29/04/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id  
CIT(A), NFAC, Delhi dated 29.8.2023 in Appeal No.CIT(A),  
Cuttack/10398/2018-19 for the assessment year 2012-13

2. Shri K.K.Bal, Id AR appeared for the assessee and Shri S.C.Mohanty,  
Ld Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the appeal of the assessee is delayed by 121 days. The assessee has filed condonation petition supported by affidavit. It was the submission that the addition was on account of cash deposit in bank account in respect of civil supply transaction done by the assessee. It was the further submission that the Assessing Officer has also mentioned that the assessee has sold building materials like chips, metal, brick and sand etc. to the tune of Rs.11,43,82,343/-. As per the VAT return filed by the assessee, the total sales was Rs.13,97,941/-. It was the submission that the assessee had engaged counsel to represent its matter but due to the failure on the part of the counsel, there was no representation before the AO and before the Id CIT(A). It was only when the exparte order of the Id CIT(A) came to the knowledge of the assessee, he contacted the present counsel to file the appeal before the Tribunal. It was in this backdrop that there was delay of 121 days. He submitted that the delay in filing of the appeal may be condoned and the issues may be restored to the file of the AO and the assessee would be in a position to substantiate his return filed by him.

4. In reply, Id Sr DR submitted that it was the duty of the assessee to look after his tax matter. It was also submitted by Id Sr DR that in the affidavit filed, the assessee mentions that he has provided the user Id and password account to his counsel. It was submitted that the fact that the

assessee knew his user Id and password shows that the assessee should follow the case matters.

5. We have considered the rival submissions. Considering the submission by Id AR as also the condonation petition filed by the assessee clearly shows that the delay in filing the appeal was on account of the failure on the part of the counsel of the assessee. An assessee does know his user Id and password does not mean that he would be keeping track his tax matters when he has no specific reason to doubt his counsel. It is only subsequently when he came to know that there was failure on the part his previous counsel to look into his case properly, he contacted the present counsel to file his appeal before the Tribunal. This being so, as the reasons given in the petition have not been found to be false, the delay in filing the appeal is condoned and appeal disposed of on merits.

6. Clearly, due to failure on the part of Id AR of the assessee, the assessment has been done ex parte so also the appeal before the Id CIT(A). The assessee has also placed before us the annual return summary in respect of sale of chips, metals, bricks and sand to the tune of Rs.13,97,941/-. The return copy under VAT has not been placed before us. This being so, in the interest of justice, the issues in this appeal are restored to the file of the Assessing Officer for readjudication after verification of all the details and after providing adequate opportunity of being heard to substantiate his case.

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

Order dictated and pronounced in the open court on 29/04/2024.

Sd/-  
**(Manish Agarwal)**  
ACCOUNTANT MEMBER

sd/-  
**(George Mathan)**  
JUDICIAL MEMBER

Cuttack; Dated 29/04/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The appellant: Santosh Kumar Rout, Prop.  
S.R.Suppliers Biranilakanthapur,  
Biranilakanthapur, Thakurpatna,  
Kendrapara-754250
2. The Respondent: Income Tax Officer,  
Kendrapara Ward, Kendrapara
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**