



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

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

ITA Nos.337 & 338/CTK/2023
Assessment Year : 2008-09 & 2009-10

Dinesh Chandra Das, Majhigaon, Bahalda Road, Dist: Mayurbhanj	Vs.	ACIT, Baleswar Circle, Baleswar
PAN/GIR No.AAUPD 0546 J		
(Appellant)	..	(Respondent)

Assessee by : Shri Somnath Sahu, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 30/04/2024
Date of Pronouncement : 30/04/2024

ORDER

Per Bench

These are appeals filed by the assessee against the orders of the Id CIT(A), NFAC, Delhi dated 21.6.2023 in Appeal No. CIT(A), Cuttack/10866/2016-17 and CIT(A),Cuttack/10862/2016-17 for the assessment years 2008-09 & 2009-10, respectively.

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

3. In respect of ITA No.338/CTK/2023, Id CIT DR has filed an adjournment application mentioning that there is a prescheduled meeting of budget suggestion committee at Bhubaneswar has been called and he is busy with that meeting. As the issues in this appeal are not very complicated, the adjournment application filed by Id CIT DR is rejected and the appeal is being disposed off. In any case, Id Sr DR is also party in ITA No.337/CTK/2023, wherein, identical issues are involved. It was submitted by Id AR that the appeals filed by the assessee are delayed by 72 days. The assessee has filed condonation petition for the delay, wherein, it is mentioned that the assessee is 73 years old person and is suffering from severe knee problem and he was undergoing medical treatment. The reasons for the delay have not been found to be false and consequently, the delay is condoned and the appeals are disposed of on merits.

4. Ld AR further submitted that the notices have been issued by the Id CIT(A). However, the assessee was not well versed with the computer information technology and consequently, did not know about the notices. It was only when the order was received that the assessee came to know. It was the submission that the Id CIT(A) has dismissed the appeal of the assessee on the ground that the appeal is filed in the paper form manually on 11.5.2016 and was not in electronic form. Ld CIT(A) has also referred to Circular issued by CBDT dated 26.5.2016, wherein, it is mentioned that Rule 45 of I.T.Rules has made compulsory to e-file the appeals w.e.f. 1.3.2016

and the time limit for filing of e-appeal which due to be filed by 15.5.2016 could be filed upto 15.2.2016. Admittedly, the impugned appeals have been filed before the Id CIT(A) on 11.5.2016 manually. This was filed before the circular issued on 26.5.2016. Considering these facts and considering the fact that the e-filing of appeal was made compulsory and it was during the time of change over from physical filing to e-filing that the appeals were filed, in the interest of justice, the issues in these appeals are restored to the file of the Id CIT(A) for re-adjudication. The Id CITA(A) shall issue fresh defect notice to the assessee for the purpose of filing of appeals in electronic form and then dispose off the said appeals in accordance with law after granting adequate opportunity of hearing. We are live to the fact that we can direct the assessee to file appeals electronically. However, should there be the requirement of opening of assessment for the purpose of filing electronic filing, for this purpose, the issues are restored to the file of the Id CIT(A) so that he may give necessary direction for the purpose of permitting the assessee to rectify the mistake, if any.

5. In the result, appeals of the assessee stand partly allowed.

Order dictated and pronounced in the open court on 30/04/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 30/04/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. Dinesh Chandra Das, Majhigaon, Bahalda
Road, Dist: Mayurbhanj
2. The Respondent: ACIT, Baleswar Circle,
Baleswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack