



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

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

ITA No.362/CTK/2023
Assessment Year : 2017-18

Jyotiranjana Samal, M/s. Siddhi Pharmaceutical, S Mangalpur, Jajpur	Vs.	Income Tax Officer, Jajpur
PAN/GIR No.BVAPS 0526 H		
(Appellant)	..	(Respondent)

Assessee by : S/Shri Natabar Panda & Dulal Satyanarayan Jethi,
Advs

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

Date of Hearing : 02/05/2024

Date of Pronouncement : 02/05/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id
CIT(A), NFAC, Delhi dated 26.10.2023 in Appeal No.CIT(A),
Cuttack/10381/2019-2020 for the assessment year 2017-18

2. Shri Natabar Panda, 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 Id CIT(A) passed the impugned order exparte. It was the submission that the notice of hearing was not served on the assessee. It was also the submission that the assessee does not know how to operate e-mail and to open the portal of income tax department. It was the submission that in view of this, both the assessment order as well as the order of CIT(A) were passed exparte without affording reasonable opportunity of hearing. It was submitted that the addition made u/s.69 is against the principles of natural justice, therefore, prayed that the matter be restored back to the file of the AO for fresh adjudication after hearing the assessee.

4. In reply, Id Sr DR supported the orders of lower authorities.

5. We have considered the rival submissions. A perusal of the impugned order clearly shows that the appeal has been dismissed exparte without hearing the assessee. A perusal of the assessment order also shows that due to non-representation from the side of the assessee, the assessment has been passed exparte u/s.144 of the Act. Hence, the assessee has not been provided the opportunity to substantiate his case either before the AO as well as before the Id CIT(A). It was the submission of the assessee that as he was not conversant with the income tax portal, the notice sent by the department was not known to him. At the Bar, Id AR prayed that if one more opportunity is given, the assessee would be in a position to substantiate his case. Therefore, we set aside the order of the

Id CIT(A) and restore the matter back to the file of the Assessing Officer to readjudicate the issue afresh after affording adequate opportunity of being heard to the assessee. It is also advisable that before concluding the appellate proceedings for non-prosecution, an opportunity by issue of notice to the affected party either physically or through AO be made to avoid this type of frivolous litigation.

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

Order dictated and pronounced in the open court on 02/05/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 02/05/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Jyotiranjana Samal, M/s.
Siddhi Pharmaceutical, S Mangalpur, Jajpur
2. Income Tax Officer, Jajpur
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