



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.94/CTK/2024**

Assessment Year : 2017-18

Narendra Behera, At: Patharapura, Jaleswar, Baleswar	Vs.	Income Tax Officer, Ward-2, Balasore.
PAN/GIR No.		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Natabar Panda and Dulal Satyanarayan Jethi,  
Advs

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

**Date of Hearing : 21/05/2024**

**Date of Pronouncement : 21/05/2024**

**ORDER**

This is an appeal filed by the assessee against the order of the Id  
CIT(A), NFAC, Delhi dated 9.1.2024 in Appeal  
No.CIT(A),Cuttack/11038/2019-20 for the assessment year 2017-18 .

2. Shri Natabar Panda and Dulal Satyanarayan Jethi, Id ARs appeared  
for the assessee. Shri S.C.Mohanty, Id Sr DR represented on behalf of the  
revenue.

3. At the outset, Id AR has filed written submissions, as under:

BEFORE THE INCOME TAX APPELLATE TRIBUNAL: CUTTACK  
BENCH: CUTTACK

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In the matter of	...	Narendra Behera PAN-AQCPB5647AF -Vrs.- ITO, Ward-2, Balasore
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WRITTEN SUBMISSION

01. That the appellant above named was trading vegetable on retail basis during the year under appeal and filed return of income disclosing total income at Rs.4,97,380.00 after claim of deduction under chapter-VIA at Rs.1,48,679.00.
02. That the case was selected for scrutiny under CASS due to abnormal increase of cash deposits during demonetization period as compared to pre-demonetization period.
03. That due to illness of family member the appellant couldn't reply to the notices issued to him and participate in assessment proceeding.
04. That the last notice was uploaded to the portal of the Department to which the appellant had no access and ultimately the assessment order was passed u/s.144 of the Act on 20.12.2019 in order to save the limitation determining total income at Rs.30,75,590.00 demanding a sum of Rs.21,59,461.00 towards tax and interest.
05. That due to lack of evidence the LAO added a sum of **Rs.18,00,000.00 (SBI, Jaleswar at Rs.14,00,000.00 + Bandhan Bank at Rs.4,00,000.00)** u/s.69A of the Act to his total income on account of unexplained cash deposits during demonetization period.

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06. That the appellant has got the books of account, filed Audit Report in Form No.3CB & 3CD and return of income accordingly. But due to prolonged illness of this family member he was unable to submit evidences before the LAO. The LAO in absence of the same estimated net income @8% of the Gross Receipts at Rs.1,59,52,201.00 ( Rs.1,77,52,201.00 - Rs.18,00,000.00) at **Rs.12,76,176.00** u/s.44AB of the Act.
07. That the LAO also disallowed the deduction under Chapter-VIA at **Rs.1,48,094.00** in absence of proper evidence.
08. That the appellant being aggrieved with the order of the LAO filed First Appeal before the Ld. CIT(A), NFAC.
09. That the Ld. CIT(A) in faceless regime uploaded the notice for hearing of appeal in the portal and the appellant being ignorant of operating the same couldn't comply the notices for which the order of the LAO was ultimately confirmed and the appeal was dismissed by the Ld. CIT(A) on 20.12.2019.
10. That the deposit of demonetization money at **Rs.14,00,000.00** in SBI, Jaleswar and **Rs.6,00,000.00** (not Rs.4,00,000.00) in Bandhan Bank has been duly entered in the books of account of the appellant, may be verified.
11. That the LAO has taken the total deposit of the appellant at Rs.4,00,000.00 in Bandhan Bank bearing Account No.1010000044784 is not correct it should have been Account No.10160000149110, may be verified.
12. That the appellant is producing the Cash Book and evidences of deduction claimed under Chapter-VIA of the Act for the first time before the Hon'ble ITAT, may please be entertained and opportunity may be given to the appellant to produce the same before the LAO for the sake of natural justice or else the appellant would suffer irreparable loss and substantial injury. Petition u/r.29 of the ITAT Rules is filed separately may kindly be admitted and allowed.

Cuttack,  
Date:-

By the appellant through

  
Advocate

4. Further, Id AR stated that in the interest of natural justice, one more opportunity be granted to the assessee to produce the evidences before the Assessing Officer in support of the claim.

5. In reply, Id Sr DR vehemently supported the order of the Assessing officer and Id CIT(A).

6. I have considered the rival submissions. A perusal of the impugned order clearly shows that the Id CIT(A) has passed the exparte order on the ground that the assessee failed to furnish the required evidences. Even the Assessing officer has passed the assessment order u/s.144 as there was no response to the notices issued by him. Before me, Id AR has prayed that if one more opportunity is granted to the assessee, he would be in a position to furnish the required evidences before the Assessing Officer. In the instant case, the assessee has failed to lead proper evidence before the authorities below to prove the claim of deduction under Chapter VIA of the Act on account of illness of a family member. The Id. AR contended that the assessee has sufficient evidence to prove the claim of deduction and one more opportunity be granted, which was not seriously objected by the Id. Sr. DR. Under these circumstances, I consider it appropriate to set aside the impugned order of Id CIT(A) and direct the assessee to file such evidence in support of receipt of services to the satisfaction of the AO, who will then examine and decide the issue denovo..

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

Order dictated and pronounced in the open court on 21/05/2024.

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

Cuttack; Dated 21/05/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Narendra Behera, At:  
Patharapura, Jaleswar, Baleswar
2. The Respondent: Income Tax Officer, Ward-  
2, Balasore.
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**