



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.142/CTK/2024

Assessment Year : 2017-18

Nakhara Service Co-operative Society Limited., At-Nakhara, Via: Choudwar, PO: Nakhara, PS: Choudwar, Cuttack	Vs.	Income Tax Officer, Ward 2(5), Cuttack
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri Narahati Swain and B.N.Behera, Advs
Revenue by : Shri Charan Dass, Id Sr DR

Date of Hearing : 27/05/2024

Date of Pronouncement : 27/05/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 12.7.2023 in Appeal No.CIT(A), Cuttack/10266/2019-20, for the assessment year 2017-18.

2. Shri Narahari Swain and B.N. Behera Id ARs appeared for the assessee. Shri Charan Dass, Id Sr DR represented on behalf of the revenue.

3. The appeal is time barred by 191 days. The assessee has filed condonation petition dated 13.3.2024 supported by an affidavit, stating the

reasons therein that as the Secretary of the appellant society was seriously suffered from Asthama, chest pain, cough, breathing problem and other neurological problem, the treating doctor advised him to take complete rest and thereafter he was hospitalized for treatment. It was in this backdrop that the appeal could not be filed within the stipulated period. When the Secretary became complete normal and came to know about the appellate order, he consulted the counsel to file an appeal before the Tribunal and, therefore, there was delay of 191 days in filing the appeal. It was prayed that the delay of 191 days may be condoned and appeal may be taken up for hearing on merits. Ld Sr DR opposed the condonation of delay.

4. After considering the condonation petition and the submission of the parties, we are satisfied that the assessee has reasonable cause in not filing the appeal within the prescribed period. As the belated filing of appeal is not intentional, the delay in filing of appeal is condoned the appeal is disposed of on merits.

5. It was submitted by Id AR that Id CIT(A), NFAC has passed the impugned order without providing sufficient opportunity of being heard to the assessee. It was the submission that the appellant being a cooperative society is entitled to deduction u/s.80P. He prayed that if one more opportunity is given, the assessee would cooperate in the set aside proceedings.

6. In reply, Id Sr DR supported the order of the Id CIT(A).
7. We have considered the rival submissions. It is an admitted fact that despite number of opportunities granted by the Id CIT(A), NFAC, the assessee did not file any submissions for which, Id CIT(A), NFAC sustained the addition made by the Assessing officer. We find Id CIT(A), NFAC has dismissed the appeal on the ground of non-prosecution by the assessee and also the written submission in support of the grounds of appeal. The Id CIT(A) has also not discussed the issue on merits. Therefore, in the interest of natural justice, the issues in this appeal are restored back to the file of the Id CIT(A) with the direction to give one more opportunity to the assessee to substantiate his case and decide the issue as per facts and law.
8. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 27/05/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 27/05/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Nakhara Service Co-operative Society Limited., At-Nakhara, Via: Choudwar, PO: Nakhara, PS: Choudwar, Cuttack
2. The respondent: Income Tax Officer, Ward 2(5), Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack