



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

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

ITA No.164/CTK/2024
Assessment Year : 2020-2021

Vivek Realty and Resorts (P) Ltd., 403, and 404, 4 th floor, Forum Mart, Khurda.	Vs.	Asst. Director of Income Tax, CPC, Bengaluru
PAN/GIR No.AACCV 9838 N		
(Appellant)	..	(Respondent)

Assessee by : Shri Kanhu Charan Samal, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 05/06/2024
Date of Pronouncement : 05/06/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id Addl.JCIT(A)-1, Pune, dated 14.2.2024 in Appeal No.NFAC/2019-20,10188168 for the assessment year 2020-2021.

2. Shri Kanhu Charan Samal, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the Id CIT(A) has dismissed the appeal of the assessee on the ground of non-condonation of delay in filing

of appeal. It was the submission that there was a delay of 288 days in filing of appeal before the Id CIT(A). It was the submission that when demand was intimated to the assessee by the Assessing Officer and the assessee was put the question in online as to whether he has accepted the demand or challenged the demand, the assessee has mentioned that he has disagreed with the demand. It was the submission that when the assessee mentions that he has disagreed with the demand, the assessee was under the impression that an automatic appeal has been created against the demand raised. It was the submission that it was subsequently only when the assessee discussed with his auditors, the assessee was informed that specific appeal has to be filed in Form 35. It was the submission that thereafter the appeal was immediately filed with a delay of 288 days. It was the submission that the online system was new to the assessee in regard to the disputing the demand. It was the submission that the assessee has a good case on merits. It was the prayer that the delay in filing of appeal before the Id CIT(A) may be condoned and the appeal be restored to the file of the Id CIT(A) for adjudicating the issue on merits.

4. In reply, Id Sr DR vehemently supported the order of the AO and Id CIT(A). It was the submission that it was the duty of the assessee to be vigilant of its own case.

5. We have considered the rival submissions. The system of online in regard to filing of appeal etc is new. Mistakes do happen. Technicality like

delay should not come on the way of substantial justice. The reasons given by the assessee are very much plausible reasons for the delay. The reasons given by the assessee has not been found to be false. This being so, in the interest of justice, the delay in filing of appeal before the Id CIT(A) is condoned and the issues in this appeal are restored to the file of the Id CIT(A) for adjudication on merits.

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

Order dictated and pronounced in the open court on 05/06/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 05/06/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Vivek Realty and Resorts (P) Ltd., 403, and 404, 4th floor, Forum Mart, Khurda
2. The Respondent: Asst. Director of Income Tax, CPC, Bengaluru
3. The Addl.JCIT(A)- 1, Pune
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack