

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.179/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Bissam Cuttack Lamps Limited, Main Road, Bissam Cuttack, Rayagada-765019	Vs	ITO, Rayagada Ward, Rayagada
PAN No. :AAABB 0665 Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Advocate & Shri N.Trinath Rao, CA
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	19/06/2024
घोषणा की तारीख/Date of Pronouncement	:	19/06/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 24.01.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1060088008(1) for the assessment year 2017-2018.

2. The appeal of the assessee has been filed before the Tribunal belatedly by 26 days. In this regard, Id. AR has filed an application for condonation of delay. Looking to the facts of the case, we condone the delay of 26 days in filing the present appeal before the Tribunal and proceeded to dispose off the appeal of the assessee finally.

3. It was submitted by the Id. AR that the assessee is a society registered under the Cooperative Societies Act, 1860 and working for the welfare of the needy and is a non-profit organization. It was the

submission that the assessee has not filed its return for the year under consideration however, the AO initiated the proceedings u/s.147 of the Act and finally the AO completed the assessment u/s.147 r.w.s.144 r.w.s.144B of the Act by assessing the total income of the assessee at Rs.66,75,844/- on account of non-cooperation by the assessee during the assessment proceedings. Ld. CIT(A) dismissed the appeal of the assessee on account of delay even after providing the sufficient cause for delay. Thus, the Id. AR submitted that the order of the Id. CIT(A) deserves to be reversed.

4. On the other hand, Id. Sr. DR vehemently supported the orders of the authorities below.

5. We have considered the rival submissions. A perusal of the impugned order, clearly shows that the Id. CIT(A) has dismissed the appeal of the assessee on account of delay observing that the assessee failed to establish sufficient cause. On further perusal of the order of the Id. CIT(A) in para 9, clearly shows that the assessee in Form 35 has provided the sufficient cause for delay, which has been incorporated by the Id. CIT(A) in its order. The relevant portion of para 9 is as under :-

“That the order has been served through the income tax department portal. The login details are with earlier officer bearer who was retired and the login credentials have been with the earlier tax consultant. It was late due to the process of breaking of the login credentials and obtaining the digital Signature of the present office bearer. Hence, the assessee prays your honour to accept the appeal for hearing of the case in the interest of natural justice.”

6. The above reasons stated by the assessee before the Id. CIT(A) is found to be reasonable for condonation of delay. Thus, respectfully

following the decision of the Hon'ble Supreme Court in the case of Collector Land Acquisition Vs. Mst. Katiji, reported in 167 ITR 467 (SC), we condone the delay in filing appeal before the Id. CIT(A). The assessee shall within sixty days of the receipt of the copy of this order, intimate the Id. CIT(A) through the jurisdictional AO of the correct email address and other information for receipt of the notices. Subsequent to which, the Id. CIT(A) shall issue fresh notices and readjudicate the issues on merits after granting the assessee adequate opportunity of being heard. Failure of the assessee to comply with the above direction, Id. CIT(A) is at liberty to draw adverse inference.

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

Order dictated and pronounced in the open court on 19/06/2024.

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 19/06/2024

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Bissam Cuttack Lamps Limited,
Main Road, Bissam Cuttack, Rayagada-
765019
2. प्रत्यर्थी / The Respondent-
ITO, Rayagada Ward, Rayagada
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण,
कटक/ITAT, Cuttack

सत्यापित प्रति //True Copy//