



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

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

ITA No.191/CTK/2024

Assessment Year : 2017-18

Bhabani Shankar Nag, Talpali Para, Bolangir.	Vs.	ITO, Ward-1, Bolangir
PAN/GIR No.AGJPN 4807 D		
(Appellant)	..	(Respondent)

Assessee by : Shri Binod Agarwal, Adv

Revenue by : Shri Charan Dass, Sr DR

Date of Hearing : 26/06/2024

Date of Pronouncement : 26/06/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 26.2.2024 in Appeal No. CIT(A), Sambalpur/10087/2019-20 for the assessment year 2017-18.

2. Shri Binod Agarwal, Id AR appeared for the assessee and Shri Charan Dass, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a seasonal fruits vendor. It was the submission that during the demonetization period, the

assessee had deposited Rs.20,00,000/- in his bank account. It was the submission that upto the assessment years 2015-16, the assessee had filed his returns of income. It was the submission that during the relevant assessment year, the assessee has not filed his return of income and the Assessing Officer had initiated assessment proceedings by issuance of notice u/s.142(1) of the Act. It was the submission that except filing the reply to notice of the Assessing Officer through e-proceedings on 17.7.2019, later on had not cooperated in the assessment proceedings and consequently, the assessment was completed u/s.144 of the Act. It was the submission that in the course of assessment proceedings, the Assessing Officer had made an addition of Rs.20 lakhs deposited during the period of demonetization as unexplained money u/s.69A of the Act. Ld AR further submitted that there was a credit in the bank account of Rs.3,01,505/-, which was nothing but the loan and redemption of mutual fund. It was the submission that the Id CIT(A) has accepted the claim of redemption of mutual fund but the loan from the assessee's brother was not accepted as the assessee had not produced any evidence before the Assessing Officer. It was the submission that on appeal, the Id CIT(A) granted the assessee benefit of Rs.1,00,000/- and had confirmed the balance addition. It was the prayer that the issues in this appeal may be restored to the file of the Assessing Officer and the assessee would be in a position to substantiate his case.

4. In reply, Id Sr DR submitted that the order of the Id CIT(A) is liable to be upheld. It was the submission that the assessee has not produced any evidence to substantiate his claim. It was the submission that before the Id CIT(A), the assessee has produced the proof of redemption of mutual fund and same was in the nature of fresh evidence. It was the submission that the Id CIT(A) erred in accepting the fresh evidence.

5. We have considered the rival submissions. A perusal of the assessment order clearly shows that the assessment has been passed exparte. In regard to non-filing of returns, there has been certain response from the assessee in the course of assessment but it is noticed that these are not supported by any evidence. This being so, in the interest of justice, the issues in this appeal are restored to the file of the Assessing Officer for readjudication after granting the assessee adequate opportunity to substantiate his case.

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

Order dictated and pronounced in the open court on 26/06/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 26/06/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant: Bhabani Shankar Nag,
Talpali Para, Bolangir.
2. The Respondent: ITO, Ward-1, Bolangir
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Sambalpur
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack

