



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

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

**ITA No.217/CTK/2024**  
Assessment Year : 2016-17

Binay Kumar Gupta, Qr. No.4, Kalinagar, Brajaraj Nagar, Jharusuguda	Vs.	Income Tax officer, Ward-2, Jharsuguda
PAN/GIR No.BFHPG 0163 D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.K.Mishra, Adv  
Revenue by : Shri S.C.Mohanty, Sr. DR

**Date of Hearing : 08/07/2024**  
**Date of Pronouncement : 08/07/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id  
CIT(A), NFAC, Delhi dated 9.6.2023 in Appeal  
No.CIT(A),Sambalpur/10118/2018-19 for the assessment year 2016-17.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri  
S.C.Mohanty, Id Sr. DR appeared for the revenue.

3. The appeal is delayed by 270 days. The assessee has filed condonation petition dated 4.7.2024 supported by affidavit and medical certificate of the doctor, stating that even though the order of the Id CIT(A) was received on 11.6.2023 but by during the said time, the assessee was seriously suffering from sciatica, fever and migraine and had undergone medical treatment for a longer time and was advised complete bed rest. The assessee had no knowledge about passing of this order, as such, he could not file the appeal within the due date. It was in this backdrop that there was delay of 270 days in filing of the present appeal. This contention of the assessee has not been found to be false. Consequently, we condone the delay of 232 days and admit the appeal for hearing.

4. It was submitted by Id AR that the Id CIT(A), NFAC, Delhi has passed order ex parte without affording reasonable opportunity of hearing to the assessee. He prayed to remit the matter back to the file of the AO for fresh consideration of the issues in this appeal.

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

6. We have considered the rival submissions. A perusal of the impugned order clearly shows that the Id CIT(A) has issued several notices, as is evident from the order of the Id CIT(A) at page 4 & 5 and the assessee has failed miserably to respond the same. As the assessee failed to furnish any written submissions/documents with respect to ground raised in Form-

35, and due to non-compliance to the notices, the Id CIT(A) has passed the exparte order. Now, Id AR has undertaken before us that if one more opportunity is granted, the assessee would be in a position to file the documentary evidences in support of the claim before the Assessing officer. Therefore, in the interest of justice, we set aside the order of the Id CIT(A) and remit the matter back to the file of the Assessing Officer to readjudicate the issue after affording reasonable opportunities of hearing to the assessee, subject to cost of Rs.5,000/- (Rupees five Thousand only) to be deposited within 60 days from the date of this order under the head "others" in ITNS challan 280 in the Account No.500. In the event the cost is not paid, the order passed by the Id CIT(A) and that of the AO would stand confirmed.

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

Order dictated and pronounced in the open court on 08/07/2024.

Sd/-  
**(Manish Agarwal)**  
ACCOUNTANT MEMBER  
Cuttack; Dated 08/07/2024  
B.K.Parida, SPS (OS)

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

**Copy of the Order forwarded to :**

1. The Appellant: Binay Kumar Gupta, Qr.  
No.4, Kalinagar, Brajaraj Nagar,  
Jharsuguda
2. The Respondent: Income Tax Officer, Ward-  
2, Jharsuguda
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**