

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, 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.224/CTK/20243

(निर्धारण वर्ष / Assessment Year : 2014-2015)

Gram Utthan, Pimpudi, Rajkanika, Kendrapara	Vs	DCIT (Exemption), Bhubaneswar
PAN No. :AAATU 1223 F		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri Sunil Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	11/07/2024
घोषणा की तारीख/ Date of Pronouncement	:	11/07/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 29/11/2023, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1058291282(1) for the assessment year 2014-2015.

2. It was the submission of the Id. AR that the appeal of the assessee has been dismissed by the Id. CIT(A) on account of delay. It was the submission that even before the Id. CIT(A) the assessee could not provide the details for seeking of condonation of delay before adjudicating the matter. It was the submission that the delay in filing the appeal before the Id. CIT(A) was that the portal for filing of appeal had not opened. The Id. AR drew our attention to clause 2(c) of the Form No.35 and submitted that the order of the AO was received in physical mode on 28.10.2016. It was the submission that immediately the appeal fee had been paid on

28.10.2016 as is evident from clause 16 of Form 35. It was the submission that it was only when because the portal for filing did not open the assessee could not file the appeal within the time. It was the submission that the delay in filing the appeal before the Id. CIT(A) is required to be condoned and the issues may be restored to the file of Id. CIT(A) for readjudication on merits.

3. In reply, Id. Sr. DR vehemently supported the orders of the Id. AO and Id. CIT(A).

4. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that the assessee has paid the challan for filing of appeal within the time. There seems to be some merits in the submission made by the assessee. However, there has been no adjudication on the delay by the Id. CIT(A). This being so, in the interest of justice, issues in this appeal are restored to the file of Id. CIT(A) for readjudication after granting the assessee adequate opportunity to substantiate its case as also to explain the delay in filing of the appeal before the Id. CIT(A).

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

Order dictated and pronounced in the open court on 11/07/2024.

Sd/-
(MANISH AGARWAL)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 11/07/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Gram Utthan,
Pimpudi, Rajkanika, Kendrapara
2. प्रत्यर्थी / The Respondent-
DCIT (Exemption), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack