



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.216/CTK/2024

Assessment Year : 2017-18

Sarat Kumar Patel, Naksapali Kirmira, Laikera Bagdehi Naksapali, Dist: Jharsuguda	Vs.	CIT(A), NFAC, Delhi
PAN/GIR No.AIBPP 3360 K		
(Appellant)	..	(Respondent)

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

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 25.8.2023 in Appeal No.NFAC/2016-17/10106076 for the assessment year 2017-18.

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 193 days. The assessee has filed condonation petition dated 4.7.2024 supported by affidavit and medical

certificate, stating that even though the order of the Id CIT(A) was received on 27.8.2023 but by during the said time, the assessee was seriously suffered from Lumbar radiculopathy, which is a never root problem in the lower back, causes symptoms of severe pain or irritation in the back and down the legs 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 193 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 193 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 submitted that the Assessing officer has passed assessment order u/s.144B r.w.s 147 of the Act. 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) in response to notice, the assessee had made submissions. The Id CIT(A) has observed that as the assessee had not furnished substantial evidence in support of the claim of in

respect of purchase of property, the Assessing Officer was justified in making the disallowance and dismissed the appeal of the assessee. Even before the Id CIT(A), the assessee failed to give satisfactory explanation of the investment made in the said property. 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. We also find that the assessment in this case has been passed u/s.144B r.w.s 147 of the Act due to non-representation of the assessee 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.

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/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 08/07/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant: Sarat Kumar Patel, Naksapali
Kirmira, Laikera Bagdehi Naksapali, Dist:
Jharsuguda
2. The Respondent: The CIT(A), NFAC, Delhi
3. Pr.CIT-1, Bhubaneswar
4. DR, ITAT,
5. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack