



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.259/CTK/2024

Assessment Year : 2015-16

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| Maa Traders, Nuasahi, Po: Majhihara, Via: Banamalipur, Dist: Khurda. | Vs. | ITO, Khurda ward, Khurda |
| PAN/GIR No.AAYFM 3448 G | | |
| (Appellant) | .. | (Respondent) |

Assessee by : Shri Rajat Kar, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 6/08/2024

Date of Pronouncement : 6/08/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 10.4.2024 in Appeal No.NFAC/2014-15/10170755 for the assessment year 2015-16.

2. Shri Rajat Kar, Id AR appeared for the assessee. Shri S.C.Mohanty, Id Sr DR represented on behalf of the revenue.

3. In Ground No.1 of appeal, the grievance of the assessee is that the Id CIT(A) erred in dismissing the appeal of the assessee ex parte in limine without affording reasonable opportunity of hearing to the assessee.

4. It was submitted by Id AR that the assessee was having health issue, which has caused the delay in filing the appeal before the Id CIT(A). It was the submission that the delay in filing the appeal before the CIT(A) be condoned and the appeal be restored to his file for fresh consideration.

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

5. I have considered the rival submissions. A perusal of the order of the Id CIT(A) clearly shows that the delay in filing of the appeal was not condoned and, accordingly, the merits of the appeal was not considered. It is pertinent to mention that the assessee will not get any benefit by filing the delayed appeal before the appellate authorities. When substantial justice is pitted against technicality, substantial justice will prevail. This being so, in the interest of justice, the delay in filing the appeal before the Id CIT(A) is condoned and the issues in this appeal are restored to the file of the Id CIT(A) for adjudication on merits after granting adequate opportunity of being heard to the assessee.

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

Order dictated and pronounced in the open court on 6/08/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 6/08/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Maa Traders, Nuasahi, Po:
Majhihara, Via: Banamalipur, Dist: Khurda
2. The Respondent: ITO, Khurda ward, Khurda
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack

