



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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.262/CTK/2024

Assessment Year : 2018-19

Saroj Kanta Swain, Vill: Kadala PO: Haridaspur, Neulpur, Jajpur-755024	Vs.	ITO, Ward, Jajpur
PAN/GIR No.CLIPS 9960 A		
(Appellant)	..	(Respondent)

Assessee by : Shri P.R.Mohanty, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 28/08/2024

Date of Pronouncement : 28/08/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 12.2.2024 in Appeal No.NFAC/2017-18/10296242 for the assessment year 2018-19.

2. Shri P.R.Mohanty, Id AR assisted by Ms Pragyan Baliarsingh, intern, the Law College, Cuttack appeared for the assessee. Shri S.C.Mohanty, Id Sr DR assisted by intern Ms Swagatika Behera, the Law College, Cuttack represented on behalf of the revenue.

3. The appeal is time barred by 60 days. The assessee has filed condonation petition supported by affidavit, stating the reason that due to ignorance of law on taxing statute, the assessee could not contact the tax

consultant to file the appeal before the Tribunal, which caused delay of 50 days in filing the appeal. This contention of the assessee has not been found to false. Therefore, I condone the delay of 50 days and admit the appeal for hering.

4. Ld AR of the assessee submitted that the quantum appeal is pending before the Id CIT(A), NFAC and, therefore, the penalty proceedings u./s.271AAC(1) of the Act is unwarranted. Therefore, he prayed that the matter may be restored to the file of the AO to decide the penalty after passing of the quantum order by the Id CIT(A).

5. In reply, Id Sr DR supported the orders of lower authorities but did not have any objection for restoring the matter to the file of the Assessing Officer.

6. I have considered the rival submissions. It is noticed that the quantum appeal in this case is pending before the Id CIT(A), NFAC. In the penalty proceedings, it is noticed that the assessee has not cooperated in the proceedings and, therefore, penalty order has been passed exparte. Ld AR claims that the assessee has no knowledge of the income tax provisions and has never filed tax return in his entire life and thus failed to participate in any proceedings before the lower authorities. In any case, without going into the merits of the case, the issues are restored to the file of the

Assessing officer for readjudication after the order passed by Id CIT(A), NFAC in the quantum proceedings.

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

Order dictated and pronounced in the open court on 28/08/2024.

Sd/-

(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/08/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. Saroj Kanta Swain, Vill: Kadala PO:
Haridaspur, Neulpur, Jajpur-755024
2. The Respondent: ITO, Ward, Jajpur
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt. Secretary
ITAT, Cuttack