

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, 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.368/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2014-2015)

Prayas Kanti Samal, A/60, Palaspalli, Aerodrome Area, Bhubaneswar-751020	Vs	ITO, Ward-2(3), Bhubaneswar
PAN No. :APLPS 4363 L		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri S.K.Hota, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	24/09/2024
घोषणा की तारीख/ Date of Pronouncement	:	24/09/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 12.07.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2024-25/1066656218(1) for the assessment year 2014-2015.

2. It was the submission of the Id. AR that the assessment in this case has been framed u/s.144 of the Act. It was the submission that the assessee has never received the copy of the assessment order passed by the AO, however, subsequently the assessee received a letter regarding payment of huge outstanding of tax demand. Thereafter the assessee approached the AO and obtained the certified copy of the assessment order. After receiving the certified copy, the assessee preferred appeal before the Id. CIT(A), however, the Id. CIT(A) dismissed the appeal of the assessee on the ground of delay. It was also the submission of the Id. AR that there was no delay in filing of appeal as the

assessment order was initially never served upon the assessee and only after obtaining the certified copy the assessee had come to the knowledge of passing of any such order and, thus, appeal was filed after obtaining certified copy. He, therefore, prayed that after considering these facts the delay, if any, may please be condoned and the assessee shall be given one more opportunity to substantiate its claim before the AO.

3. In reply, Id. Sr.DR vehemently supported the orders of the authorities below.

4. We have considered the rival submissions. The Id. CIT(A) has dismissed the appeal of the assessee on account of delay. A perusal of the impugned order passed by the Id. CIT(A), we find that on account of delay of the counsel, the assessee should not be put to hardship. Moreover, according to assessee the assessment order was not served upon him and he was came to know about the creation of high demand only after receiving the notice for deposit of such demand. Further on perusal of assessment order, it appears that the assessee has not filed any details as sought by the AO during the course of assessment proceedings. Looking to the facts and circumstances of the case as well as in the interest of justice, we condone the delay in filing the appeal before the Id. CIT(A) and the issues in this appeal are restored to the file of AO for fresh adjudication after granting the assessee adequate opportunity of being heard, 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.

A copy of the receipt shall be shown to AO on the first date of hearing.

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

Order dictated and pronounced in the open court on 24/09/2024.

Sd/-
(MANISH AGARWAL)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

कटक Cuttack; दिनांक Dated 24/09/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Prayas Kanti Samal,
A/60, Palaspalli, Aerodrome Area,
Bhubaneswar-751020
2. प्रत्यर्थी / The Respondent-
ITO, Ward-2(3), 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