



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA Nos.339 & 340 /CTK/2024
Assessment Years : 2013-14 & 2014-15

Bhagaban Mohapatra Constructions and Engineers Pvt Ltd., At-HIG-27, Gourav Vihar, PO: Paradip, Dist: Jagatsinghpur	Vs.	ACIT, Circle-1(1), Cuttack
PAN/GIR No.AABCB 6339 D		
(Appellant)	..	(Respondent)

Assessee by : Shri Mohit Sheth, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 14/10/2024
Date of Pronouncement : 14/10/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the separate orders of the Id CIT(A), NFAC, Delhi dated 31.10.2023 in Appeal No. CIT(A),Cuttack10138/2016-17 & CIT(A),Cuttack/10332/2016-17 for the assessment years 2013-14 & 2014-15, respectively.

2. Shri Mohit Sheth, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. Both the appeals are time barred by 219 days. The assessee has filed condonation petition in both the appeals supported by affidavit, stating the reasons that the Director of the appellant company was seriously ill and had undergone medical treatment and was under direct supervision of the Doctor , who advised the Director for complete rest. It was in this backdrop that the assessee could not take necessary steps regarding filing of these appeals before the Tribunal. This contention of the assessee has not been found to be false. Hence, we condone the delay of 219 days in filing the appeals and admit the same for adjudication.

4. Before us, the counsel for the assessee submitted that the Ld. CIT(A) has passed the order exparte without affording reasonable opportunity of hearing to the assessee. It was further submitted that while passing the order, Ld. CIT(A) did not consider the facts of the case, the issues under consideration. It was the submission that the Ld. CIT(A) simply upheld the order passed by Assessing Officer, without any discussion of the case on merits. It was his prayer that the matter be restored to the file of the Assessing Officer and undertakes to furnish all the required documents/evidences to substantiate its case before the Assessing Officer.

5. In reply, Id Sr DR did not have any serious objection to the request of Id AR of the assessee.

6. We have considered the rival submissions. A perusal of the order of the Id CIT(A) clearly shows that the Id CIT(A) has passed appellate orders for both the assessment years under consideration without discussing the facts of the case and the issues under consideration and simply proceeded to uphold the assessment order, without any discussion on the issue under consideration before him due to non-compliance by the assessee. It is also noticed that the assessment orders have been passed exparte u/s.144 of the Act as there was no representation before the AO. However, it was the prayer of the assessee to give one more opportunity to present his case. This being so, in the interest of justice, the issues raised in both the appeals are restored to the file of the Id AO for readjudication after granting reasonable opportunity of being heard. The assessee is directed to produce all such evidences, as required by the AO for fresh adjudication.

7. In the result, both the appeals of the assessee stand partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 14/10/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Cuttack; Dated 14/10/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant: Bhagaban Mohapatra
Constructions and Engineers Pvt Ltd., At-
HIG-27, Gourav Vihar, PO: Paradip, Dist:
Jagatsinghpur
2. The Respondent: ACIT, Circle-1(1), Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary

ITAT, Cuttack

