



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

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

ITA Nos.146 to 149/CTK/2024
Assessment Years : 2008-09 and 2009-2010

Basanta Kumar Das, Ward No.10, Lalbazar, Baripada, Mayurbhanj	Vs.	ACIT Baleswar Circle, Baleswar
PAN/GIR No.ACOPD 0097 L		
(Appellant)	..	(Respondent)

Assessee by : Shri P.R.Mohanty, Adv
Revenue by : Shri Charan Dass, Id Sr DR

Date of Hearing : 28/05/2024
Date of Pronouncement : 28/05/2024

ORDER

Per Bench

ITA No.147 & 149/CTK/2021 –AY:2008-09 & 2009-10

Both the appeals filed by the assessee are directed against the separate orders u/s.143(3)/263 of the Act of the Id CIT(A), NFAC, Delhi dated 25.1.2024 in Appeal No. CIT(A), Cuttack/10438/2018-19 and No. CIT(A), Cuttack/10439/2018-19 for the assessment years 2008-09 & 2009-10, respectively.

2. Shri P.R.Mohanty, Id AR appeared for the assessee. Id CIT DR has submitted an adjournment petition stating that as due to some official pre-

occupation, he would not be attending the hearings. Shri Charan Dass, Id Sr DR appeared on behalf of the CIT DR. On perusal of appeal records, we find that the appeals can be disposed off in the absence of Id CIT DR, therefore, we reject the adjournment petition and proceed to decide the appeals on merits and after hearing Id AR and Id Sr DR.

3. We find that the orders u/s.263 of the Act have been quashed by the Co-ordinate Bench of this Tribunal in ITA Nos.257 & 258/CTK/2018 for the A.Y. 2008-09 & 2009-10 order dated 31.10.2022. Consequently, the orders passed u/s.263 r.w.s 143(3) of the Act would also stand quashed. In these circumstances, the orders passed by the Id CIT(A) upholding such orders, which have been quashed would also get set aside.

4. In the result, both the appeals of the assessee stands allowed.

ITA No.146 & 148/CTK/2018 : AY:2008-09 & 2009-10

5. Both the appeals filed by the assessee are directed against the separate orders u/s.147/143(3) of the Act of the Id CIT(A), NFAC, Delhi dated 8.1.2024 in Appeal No. CIT(A), Cuttack/10890/2016-17 and No. CIT(A), Cuttack/10888/2016-17 for the assessment years 2008-09 & 2009-10, respectively.

6. The appeal in ITA No.146/CTK/2024 is delayed by 19 days and the appeal in ITA No.148/CTK/2024 is delayed by 17 days. The assessee has

filed condonation petitions, stating therein that due to online service of notice, consequential orders and non-verification of income tax portal on regular basis coupled with negligence or inaction of the Id AR, the appeals could not be filed. It was requested to condone the delay in filing the appeals.

7. After hearing both the sides and perusing the condonation petitions, we find that the assessee had a reasonable cause for not filing the appeal within the stipulated period. Hence, we condone the delay and admit the appeals for hearing.

8. Id AR submitted that both the appeals have been passed by the Id CIT(A) exparte. It was his submission that one more opportunity be granted to the assessee to putforth his grievance before the Id CIT(A).

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

10. We have considered the rival submissions. We find that substantial opportunities have been granted by Id CIT(A) as is evident from the order of the Id CIT(A). We also find that before the AO, the assessee could not produce the desired books of account and other relevant details despite given several opportunities except the appearance of Id AR. Before us, Id AR has prayed to grant one more opportunities to furnish the required details and participate in the set aside proceedings. Therefore, in the interest of justice, we set aside the orders of the Id CIT(A) and remit the

matter back to his file for readjudication after affording reasonable opportunities of hearing to the assessee, subject to cost of Rs.1,000/- (Rupees one Thousand only) each 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. In the event the cost is not paid, the orders passed by the Id CIT(A) and that of the AO would stand confirmed.

11. In the result, the appeals of the assessee are treated as allowed for statistical purposes.

Order dictated and pronounced in the open court on 28/05/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/05/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Basanta Kumar Das, Ward
No.10, Lalbazar, Baripada, Mayurbhanj
2. The Respondent:
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack