



IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

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

ITA No.403/CTK/2024  
Assessment Year : 2016-17

Pradyumna Kumar Nanda, Susuda, Ankula, Angul	Vs.	ITO, Delhi
PAN/GIR No.AEVPN 3839 B		
(Appellant)	..	( Respondent)

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

Date of Hearing : 21/10/2024  
Date of Pronouncement : 21/10/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 2.9.2024 in Appeal No.NFAC/2015-16/10056287 for the assessment year 2016-17.

2. Shri P.R.Mohanty, Id AR, assisted by Shri Om Shiv Shankar Sahoo (3<sup>rd</sup> year), intern University Law College, Bhubaneswar appeared for the assessee and Shri S.C.Mohanty, Sr. DR assisted by Ms Karisma Mohanty (4<sup>th</sup> year) intern University Law College, Bhubaneswar appeared for the revenue.

3. It was submitted by Id AR that the Id CIT(A) has dismissed the appeal of the assessee by holding that the appeal filed by the assessee is delayed by 106 days. It was the submission that the appeal of the assessee has been filed on 9.2.2022. It was the submission that admittedly, the assessment order was passed on 17.9.2021 and appeal was to be filed on or before 25.10.2021 being 30 days from the date of service of the assessment order and the appeal was filed only on 9.2.2022. It was the submission that the Hon'ble Supreme Court in Suo Moto Writ Petition (C) No. 3/2020 regarding Cognizance for Extension of Limitation (on account of COVID-19) vide order dated 27<sup>th</sup> April, 2021 has restored the Limited Extension order dated 6<sup>th</sup> May, 2020 and held "in continuation of the order dated 8<sup>th</sup> March 2021, the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till 28.2.2022. It was the submission that the appeal is filed within the said period, same cannot be considered as delayed. It was the submission that order of the Id CIT(A) is liable to be reversed and the issues be restored to the file of the Assessing Officer insofar as admittedly, there has been failure on the part of the assessee to produce all the evidences before the Assessing officer.

4. In reply, Id Sr DR vehemently supported the order of the Id CIT(A). It was the submission that if the issues are being set aside, it should be sent to the file of the Id CIT(A), NFAC. To this, Id AR submitted that

effectively, as the details have not been produced before the AO, even Id CIT(A) would have sent back the matter to the file of the AO and in the interest of justice, it can be sent back by the Tribunal.

5. We have considered the rival submissions. The facts in the present case clearly shows that the assessee has filed appeal before the Id CIT(A) within the limitation as provided by the Hon'ble Supreme Court in Suo Moto Writ Petition (C) No. 3/2020 (supra). This being so, it cannot be held that there is delay in filing of the appeal before the Id CIT(A) by the assessee. It is also noticed that the assessee has not produced all the evidences before the Assessing Authority for proper adjudication. This being so, it is held that there is no delay in filing of the appeal before the Id CIT(A). The order of the Id CIT(A) is set aside and the issues in this appeal are restored to the file of the Assessing Officer for readjudication after granting the assessee adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 21/10/2024.

SD/-  
(George Mathan)  
JUDICIAL MEMBER

SD/-  
(Manish Agarwal)  
ACCOUNTANT MEMBER

Cuttack; Dated 21/10/2024  
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Pradyumna Kumar Nanda,  
Susuda, Ankula, Angul
2. The Respondent: ITO, Delhi
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
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