



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

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

ITA No.430 & 431/CTK/2024

Assessment Year : 2013-14

Kailash Agrawal, Keshaipali Road, Bhatli, Bargarh	Vs.	Addl/Jt/Dy/Asst.Commissioner of Income Tax, National Faceless Centre, Delhi
PAN/GIR No. ATRPA 4605 K		
(Appellant)	..	(Respondent)

Assessee by : Shri Subham B Mehta, CA
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 13/11/2024
Date of Pronouncement : 13/11/2024

ORDER

Per Bench

ITA No.430/CTK/2024 is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 28.8.2024 in Appeal No.NFAC/2012-13/10186151 in the matter of assessment under section 147 r.w.s 144 of the Act for the assessment year 2013-14,.

2. ITA No.431/CTK/2024 is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 28.8.2024 in Appeal No.NFAC/2021-22/10186347 in the matter of penalty levied u/s.271(1)(c) of the Act for the assessment year 2013-14.

3. Shri Subham B Mehta, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the assessee.

4. There was a delay of 12 days in filing of the appeal before the Id CIT(A) in the quantum appeal and there was a delay of 13 days in filing of appeal before the Id CIT(A) against the penalty order.

5. Id AR appeared on behalf of the assessee has sought adjournment on the ground that the assessee's wife has undergone cardiac surgery in the month of October, 2024 and the assessee has sustained leg injury. As the issues in these appeals are not very complex, the adjournment application filed by the assessee is rejected and the appeals are being disposed off.

6. It was submitted by Id AR that the assessee is 69 years old person and he is staying in village area at Bhatli, Bargarh. After receiving assessment order, the assessee had to trace a counsel to file the appeals. Id counsel for the assessee was available at Raipur which is more than 240 kms from his native place. It was the submission that being an aged person, travelling was also difficult. It was the submission that the delay in

filing the appeals before the Id CIT(A) may be condoned and the issues be restored to the file of the Id CIT(A) for adjudication on merits.

7. In reply, Id Sr DR submitted that the Id Ld CIT(A) has rejected the appeals of the assessee *in limine* and consequently, same are not appealable orders.

8. We have considered the rival submissions. A perusal of the orders of Id CIT(A) show that the appeal orders have been passed u/s.250 of the Act. An order u/s.250 of the Act is an appealable order before the Tribunal. In fact, non-condonation of delay in filing the appeal before the Id CIT(A) is an appealable order insofar as the Id CIT(A) can pass an order of appeal only u/s 250 of the Act. This being so, the arguments of Id Sr DR is unsustainable.

9. Coming to the reasons given by the assessee for the delay in filing the appeals before the Id CIT(A), we observe that the reasons are found to be plausible. In any case, the delay is only minimal. When technicality is pitted against substantial justice, technicalities are always step down and substantial justice should prevail. This being so, in the interest of justice, the delay in filing of the appeals before the Id CIT(A) is condoned and the issues in the appeals on merits are restored to the file of the Id CIT(A) for adjudication on merits.

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

Order dictated and pronounced in the open court on 13/11/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

Cuttack; Dated – 13/11/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Kailash Agrawal, Keshaipali Road, Bhatli, Bargarh
2. The Respondent:
Addl/Jt/Dy/Asst. Commissioner of Income Tax, National Faceless Centre, Delhi
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Sambalpur
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary

ITAT, Cuttack