



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

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

ITA No462/CTK/2024
Assessment Year : 2016-17

Balakrishan Mohanty, At- Patasundarpur, PO: Kakatpur-752108, Puri	Vs.	Asst. Commissioner of Income Tax, Circle-5(1), Bhubaneswar
PAN/GIR No.ACMPM 7348 B		
(Appellant)	..	(Respondent)

Assessee by : Shri Sujit Kumar Acharya and Swagatika Kanhar, Adv
Revenue by : Shri Charan Dass, Sr DR

Date of Hearing : 04/12/2024
Date of Pronouncement : 04/12/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 12.1.2024 in Appeal No. CIT(A), Bhubabneswar-2/10216/2018-19 for the assessment year 2016-17.

2. Shri Sujit Kumar Acharya and Swagatika Manhar, Id ARs appeared for the assessee and Shri Charan Dass, Sr. DR appeared for the revenue.

3. The appeal is time barred by 226 days. The assessed has filed condonation petition supported with affidavit stating the reasons that

because of medical illness of the appellant, who is 73 years age, the appeal could not be filed in due time and the delay in filing the appeal is not intentional and beyond the control of the assessee. After considering the petition and hearing the parties, we are of the view that the reasons given are plausible and are not found to be false. Accordingly, we condone the delay of 226 days in filing the appeal before the Tribunal and admit the same for adjudication.

4. It was submitted by Id AR that the Id CIT(A) has dismissed the appeal of the assessee without providing sufficient opportunity of being heard to the assessee and as such the order is on gross violation of principles of natural justice. It was the submission that the assessment order has been passed exparte as the assessee has failed to make compliance to the notices issued to him through portal. It was his prayer that one more opportunity be provided to the assessee to represent his case with all necessary documents and evidence before the Assessing Officer and accordingly prayed for restoration of the appeal.

5. In reply, Id Sr DR opposed the prayer of Id AR of the assessee and submitted that sufficient opportunities have been provided by the AO and Id CIT(A) but the assessee has not bothered to comply the same.

6. We have considered the rival submissions. It is noticed that none represented before the AO despite giving various notices through email.

Therefore, the AO was compelled to make the assessment on the basis of materials available on record. A perusal of the order of Id CIT(A) clearly shows that five notices have been issued to the assessee but there was no compliance. Hence, the Id CIT (A) has simply confirmed the addition made by the Assessing Officer without going into the merits of the case. Now before us, Id AR prayed for restoration of the appeal to the file of the Assessing Officer and undertakes in the Bar to cooperate in the set aside proceedings with all the documents and evidence to substantiate his case. Therefore, in the interest of justice, the issues in the appeal are restored to the file of the Assessing Officer for readjudication after providing adequate opportunity of hearing to the assessee subject to cost of Rs.50,000/- (Rupees fifty thousand only) in 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 and same is to be filed before the Id AO. In the event the cost is not paid, the order passed by the Id CIT(A) and that of the AO would stand confirmed.

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

Order dictated and pronounced in the open court on 04/12/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER
Cuttack; Dated 04/12/2024

sd/-
(George Mathan)
JUDICIAL MEMBER

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Balakrishan Mohanty, At-
Patasundarpur, PO: Kakatpur-752108,
Diswt: Puri
2. The respondent: Asst. Commissioner of
Income Tax, Circle-5(1),
Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary
ITAT, CUTTACK

