



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

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

ITA No.499/CTK/2024
Assessment Year : 2012-13

Panda Brothers and Traders, At/PO: Jagatsinghpur, Dist: Cuttack	Vs	Deputy Commissioner of Income Tax, Circle-1(1), Cuttack
PAN/GIR No.AAIFP 6972 G		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra and Baidyanath Behera, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 11/12/2024
Date of Pronouncement : 11/12/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id
CIT(A), NFAC, Delhi dated 26.10.2023 in Appeal
No.CIT(A),Cuttack/10612/2019-20 for the assessment year 2012-13.

2. Shri P.K.Mishra and Shri Baidyanath Behera, Id ARs appeared for the
assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. The appeal is time barred by 339 days. The assessee has filed condonation petition supported with necessary affidavit, wherein, it has been mentioned that the assessee was seriously unwell and medical certificate in support of his submission was produced. Considering the facts and evidences produced by the assessee, the delay in filing the appeal is condoned and same is disposed off on merits.

4. It was submitted by Id AR that the only issue in assessee's appeal was against the confirmation of addition of Rs.1,59,50,384/- representing certain credits from one Mr Rajoo Yadav of Raigarh, Chhatisgarh. It was the submission that the assessee is dealer in supply of Tyres and the amount was received from Shri Rajoo Yadav on account of sales made to Rajoo Yadav by the assessee. It was the submission that in the course of assessment proceedings, the assessee was unable to produce evidence to substantiate his claim of sales of Rajoo Yadav. It was the submission that consequently, the Assessing Officer had treated the entire receipts from Rajoo Yadav as income from undisclosed sources. It was the submission that the assessee was also unable to produce adequate evidence before the Id CIT(A). Before the Tribunal, Id AR undertakes to produce proof of his claim in respect of receipts of Rs.1,59,50,384/- from Rajoo Yadav and accordingly, request that the issue may be restored to the file of the Assessing Officer.

5. In reply, Id Sr DR submitted that no details of Rajoo Yadav had been produced and the ADIT(I&CI) was also unable to trace Shri Rajoo Yadav. It was the submission that no details of the sale invoices, details of transportation, copies of toll tax/entry tax and details in respect of sales caused to Shri Rajoo Yadav were produced. It was the submission that this was nothing but a transaction by which the assessee's black money had been converted through bank under the guise of a person in the name of Rajoo Yadav. It was the submission that this was actually a fraud transaction. It was the submission that prior to transfer of money into the assessee's account, the money had been deposited in the account of Rajoo Yadav, which has been found by ADIT. It was the further submission that even as per the report of ADIT, the invoice submitted by the assessee had not borne the address of Rajoo Yadav, nor any challan was available. It was the further submission that even the notice issued u/s.133(6) of the Act by the Assessing Officer was returned underserved with the postal remarks "addressee left".

6. We have considered the rival submissions. A perusal of the present case clearly shows that no evidence whatsoever has been produced by the assessee in respect of said Rajoo Yadav before the AO nor before the Id CIT(A) nor before the Tribunal. A perusal of the facts also shows that in the assessment order, the Assessing Officer has accepted the total income disclosed by the assessee at Rs.18,70,450/- alongwith minor addition, which

has been made in the original assessment order passed u/s.143(3) of the Act. Now the question arises as to whether the amount of Rs.1,59,50,384/- was part of sales which have been considered by the assessee while computing the total income at Rs.18,70,450/-. This being so and also considering the fact that the Assessing Officer has treated the same credits as income from undisclosed sources, in the interest of justice, the issues in this appeal are restored to the file of the Assessing officer for readjudication after granting the assessee adequate opportunity of hearing to substantiate his claims of receipts from Shri Rajoo Yadav. In the absence of proper cooperation by the assessee before the Assessing Officer, liberty is granted to the AO to draw adverse inference.

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

Order dictated and pronounced in the open court on 11/12/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 11/12/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Panda Brothers and Traders, At/PO: Jagatsinghpur, Dist: Cuttack
2. The Respondent: Deputy Commissioner of Income Tax, 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

