



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

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

ITA No.418/CTK/2024
Assessment Year : 2015-16

Red Tech Solution India Pvt Ltd., Plot No.SCM 839/2, Sector-9, Markat Nagar CDA, Cuttack	Vs.	ACIT, Circle-2(1), Cuttack
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri Ambika Prasad Mohanty, CAV
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 17/12/2024
Date of Pronouncement : 17/12/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id Addl/JCTI(A)-11 Mumbai dated 13.8.2024 in Appeal No. CIT(A),Cuttack/10011/2018-19 for the assessment year 2015-16.

2. Shri Ambika Prasad Mohanty, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the Id JCIT(A)-11, Mumbai has dismissed the appeal without condoning the delay in filing the appeal. It was the submission that the appeal before the Id CIT(A) was to be filed on

or before 4.1.2018, but as the tax consultant was occupied with urgent professional assignment and in process the assessment order was misplaced in the office of the tax consultant, the appeal was not filed within the due date. When the assessment order was traced in the office, the appeal was filed and consequently, there was delay of 107 days. It was the submission that there was sufficient cause in filing the appeal and the assessee would not gain anything by not filing the appeal. In support of this, an affidavit was filed by Sri Sanjib Ranjan Panda, Law Assistant of the Tax Consultant stating that had misplaced the assessment order. It was the prayer that the delay in filing of appeal before the Id CIT(A) be condoned and since the assessment was completed u/s.144/147 of the Act, the matter be restored to the file of the Assessing Officer for fresh adjudication. Id AR also undertakes in the bar that the assessee would cooperate in the set aside proceedings.

4. In reply, Id Sr DR opposed the prayer of Id AR of the assessee.

5. We have considered the rival submissions. A perusal of the impugned order of Id JCIT(A)-11, Mumbai clearly shows that Id JCIT(A) has dismissed the appeal of the assessee without condoning the delay. The assessee has stated that due to misplacement of assessment order in the office of Tax consultant, the appeal could not be filed within the stipulated time period. The 107 days delay was not intentional or deliberate, as the delay was attributed due to misplacement of assessment order by the tax

consultant. In support of this contention, an affidavit was filed by the concerned person who had misplaced the assessment order. The assessee's representative emphasized that the assessee would be more vigilant in future compliance with notices from lower authorities and had a strong case on merit that deserved another opportunity for proper adjudication. In our opinion, when there is sufficient cause for not filing the appeal within the period of limitation, the delay has to be condoned irrespective of the duration/period. In view of the above, we are condoning the delay in filing the appeal before Id. CIT(A) belatedly and the appeal is admitted for adjudication by exercising the power u/s 253(5) of the Act and the issues in this appeal are restored to the file of the Id CIT(A) to decide afresh in accordance with law after giving a fair opportunity of hearing to the assessee and decide accordingly.

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

Order dictated and pronounced in the open court on 17/12/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 17/12/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant: Red Tech Solution India Pvt Ltd.,
Plot No.SCM 839/2, Sector-9, Markat Nagar CDA,
Cuttack
2. The Respondent: ACIT, Circle-2(1),
Cuttack
3. The Addl/JCIT(A)-11, Mumbai
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary

