



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

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

ITA No.442/CTK/2024
Assessment Year : 2018-19

Satyashree Medical Agencies, Prop. Biswait Swain, At-Panisalia, Durga Bazar, Jagatsinghpur	Vs.	Income Tax officer, Ward, Paradeep
PAN/GIR No.ACUF5 5256 N		
(Appellant)	..	(Respondent)

Assessee by : Shri Prakash Kumar Jena, Adv
Revenue by : Shri Saroj Kumar Dubey, CIT DR

Date of Hearing : 30/12/2024
Date of Pronouncement : 30/12/2024

ORDER

Per Bench

This 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/2017-18/10248794 for the assessment year 2018-19.

2. Shri Prakash Kumar Jena, Id AR appeared for the assessee and Shri Saroj Kumar Dubey, CIT DR appeared for the revenue.

3. Id AR submitted that the Id CIT(A) has passed the impugned order exparte without granting sufficient opportunity of hearing and also to

furnish the supporting evidences in support of the claim, which is clear violation of principles of natural justice. It was the submission that the assessee is a partnership firm, which was dissolved on 31.3.2017. Thereafter, it continued as proprietorship business for which the proprietor has filed its return of income in PAN No.AZEPS 4694 R on 30.1.2019 showing gross total income at Rs.9,81,749/- and has paid the admitted tax amounting to Rs.1,07,221/-. It was the submission that the demand has been raised basing on wrong PAN No. quoted by the Punjab National Bank. It was the submission as the appellant has dissolved the partnership firm and is continuing as a proprietorship confirm, the appellant inadvertently has not replied to the notices issued by the AO, which led to passing of assessment order u/s.147 of the Act. He prayed that if the matter is restored to the file of the Assessing officer, the assessee will furnish the required details/evidences in support of the claim.

4. In reply, Id Sr DR supported the orders of lower authorities.
5. We have considered the rival submissions and gone through orders of the authorities below. There is no dispute with regard to the fact that the assessee has not pursued his case before the First Appellate Authority with utmost care and diligent which is evident from the fact that although, the Ld.CIT(A) has given sufficient opportunities, but the assessee could not file complete details to justify source for cash deposits. At the same time,

although, the Ld.CIT(A) has disposed off appeal filed by the assessee for non-prosecution, but failed to decide the issue on merits with reasoning which is evident from the order of the Ld.CIT(A), where the Ld.CIT(A) upheld the additions made by the AO. In our considered view, even in a case where the appeal is disposed off for non-prosecution or ex parte for non-appearance, the appeal should be disposed off on merits on the basis of materials available on record. In view of above, we are of the considered view that the issues need to go back to the file of the AO for fresh adjudication on merits , and thus, we set aside order of the Ld.CIT(A) and restore the issues to the file of AO with a direction to re-adjudicate the issues in accordance with law after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the AO and file necessary evidences without seeking any adjournment.

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

Order dictated and pronounced in the open court on 30/12/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 30/12/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Satyashree Medical Agencies, Prop. Biswait Swain, At-Panisalia, Durga Bazar, Jagatsinghpur
2. The Respondent: Income Tax officer, Ward, Paradeep
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

