



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

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

**ITA No.518 /CTK/2024**  
Assessment Year : 2021-22

Debaguru Adarsha Bidyalaya Parichalana Committiee Mugamanda, PO: Narayanipada, PS: Begunia , Khordha, 752062	Vs.	Income Tax Officer, ITO Ward, Khorda
PAN/GIR No.AADTD 7196 F		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Natabar Panda, Dr Sanjay Kumar Behura and  
Ananta Narayan Singhbabu, Advs  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 31/12/2024**  
**Date of Pronouncement : 31/12/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id  
Addl/JCIT(A)-4, Kolkata dated 3.7.2024 in Appeal No.ADDI/JCIT(A)-  
4,Kolkata/10003/220-2021 for the assessment year 2021-22.

2. The assessee has raised the following grounds of appeal:

“ 1. That the Ld. Commissioner (Appeal) should have allowed further  
opportunity to the appellant to furnished its reply to the notice issued  
U/s.250 of the IT Act dated 14.06.2024 vide DIN & Notice No.  
ITBA/APL/APL\_1/2024-25/10656579278(1) and should not have

confirmed the assessment by allowing only one opportunity to furnish the reply.

2. That the Ld. Commissioner (Appeals) should have allowed further opportunity to file a reason for delay with supporting evidence, non-grant of second opportunity to furnish the same amounts to violation of principles of natural justice, illegal, arbitrary, exercise and bad-in-law.

3. That the inadvertent wrong claim made by the assessee U/s 12A/12AA/12AB instead of claiming the exemption U/s.10(23c) (iii)(ad) by the chartered Accountant while filing the return should have been considered by the Ld. CIT(Appeal).

4. That the Chartered Accountant on a wrong notion having filed Form No. 10B instead of claiming exemption U/s.10(23c) (iii)(ad) being an inadvertent mistake committed by the Chartered Accountant Should have been liberally considered by the CIT (appeals ) while disposing of the appeal.

5. That the appellant being an education institution solely imparting education to the students and is entitled to claim exemption U/s.10(23c) (iii)(ad), the inadvertent mistake committed by the Chartered Accountant is is condonable in the interest of Justice and equity.

6. That the appeal be allowed on the above ground (s) or such other grounds if any will be urged at the time of hearing of the appeal.

3. The appeal filed by the assessee is delayed by 67 days. The assessee has filed condonation petition supported by affidavit stating the reasons for not filing the appeal within the stipulated time. After considering the rival submissions and condonation petition, we are satisfied that the assessee had reasonable cause for not filing the appeal in time. Accordingly, we condone the delay of 67 days and admit the appeal for hearing.

4. It was submitted by Id AR that the Id JCIT(A) has dismissed the appeal of the assessee without giving sufficient opportunity of hearing. It was the submission that the Id CIT(A) has not condoned the delay of 418 days in filing appeal against the assessment order. It was also the submission that instead of claiming exemption u/s.10(23c)(iii)(ad), an inadvertent wrong claim u/s.12A/12AA/12AB was made by the Chartered Accountant while filing the return, which mistake could have been rectified by the Id JCIT(A). It was the further submission that the assessee was not aware about income tax E-assessment procedure; therefore, the assessee was unable to check the assessment order in the Income tax portal. Hence, there was delay in filing of appeal before the Id CIT(A). Hence, it was his prayer that the delay in filing appeal before the Id CIT(A) condoned and the appeal may be decided on merits.

5. In reply, Id Sr DR submitted that the contention of the assessee was that it was not aware of e-assessment procure is not correct. When somebody files its return of income, he must be vigilant to know the outcome of the return. Hence, he opposed the contention of the Id AR of the assessee.

6. We have considered the rival submissions. Adverting to the facts of the present case, it is seen that the assessee has not filed return of income also in time and it was the contention of the assessee that it was not aware about the e-assessment procedure. Moreover, in the first appeal there is a

delay of only 418 day and the assessee would not gain anything by filing the appeal late. There is no mala fide imputable to the assessee. The delay in our considered opinion in filing the appeal is a result of unaware of e-assessment procedure. It must be remembered that in every case of delay there can be some lapse of the litigant concerned. That alone is not enough to turn down the plea and to shut the doors against him. If the explanation does not smack of mala fide or it is not put-forth as a part of dilatory strategy, the Courts must utmost consideration to such litigant. At the most for the inaction or a little negligence, the assessee can be burdened with the cost. But his right of hearing of the appeal on merit ought not to be shut. Considering the overall facts and circumstances of the case and in the larger interest of justice, we are of the opinion that the appeal deserves to be allowed. We condone the delay in filing the appeal before the learned CIT(A) and restore the matter back to the Id CIT(A), who will decide the appeal of the assessee on merit after affording reasonable opportunity of hearing to the assessee.

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

Order dictated and pronounced in the open court on 31/12/2024.

Sd/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 31/12/2024

B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Debaguru Adarsha Bidyalaya  
Parichalana Committiee  
Mugamanda  
PO: Narayanipada,  
PS: Begunia  
Khordha, 752062
2. The Respondent: Income Tax Officer,  
ITO Ward
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.Secretary  
**ITAT, CUTTACK**

