



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

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

ITA Nos.555 to 561/CTK/2024
Assessment Years : 2020-21, 2019-20

Sahoo Distributors Private Limited, At-Babujanj Bazar, PO/PS: Chhatia, Dist: Jajpur	Vs.	Asst. Commissioner of Income Tax, Central Circle, Cuttack
PAN/GIR No.AALCS 5499 K		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri Saroj Kumar Dubey, CIT DR and
Shri S.C.Mohanty, Sr DR

Date of Hearing : 08/01/2025
Date of Pronouncement : 08/01/2025

ORDER

Per Bench

ITA No.555/CTK/2024 for the assessment year 2020-21 is an appeal filed by the assessee against the order dated 29.11.2024 of the Id CIT(A), Bhubaneswar-2 in Appeal No.CIT(A),Bhubaneswar-2/10457/2019-20 for the assessment year 2020-2021.

2. ITA No.556/CTK/2024, ITA No.557/CTK/2024, ITA No.558/CTK/2024 and ITA No.561/CTK/2024 are appeals filed by the assessee against the separate orders of Id CIT(A), Bhubaneswar-2 dated 30.11.2024 in Appeal No.CIT(A), Bhubaneswar-2/10481/2019-20 in the matter of penalty

u/s.271AAC(1), in Appeal No.CIT(A), Bhubaneswar-2/10482/2019-20 in the matter of penalty u/s.270A of the Act, in Appeal No.CIT(A), Bhubaneswar-2/10483/2019-20 in the matter of penalty u/s.272A and in Appeal No.CIT(A), Bhubaneswar-2/10480/2019-20 in the matter of penalty u/s.271DA for the assessment year 2020-2021.

3. ITA No.559/CTK/2024 is an appeal filed by the assessee against the order of the Id CIT(A), Bhubaneswar-2 dated 29.11.2024 in Appeal No.CIT(A),Bhubaneswar-2/10640/2018-19 for the assessment year 2019-2020 in the matter of assessment u/s. 147 r.w.s 144 of the Act.

4. ITA No.560/CTK/2024 is an appeal filed by the assessee against the order of the Id CIT(A), Bhubaneswar-2 dated 30.11.2024 in Appeal No.CIT(A),Bhubaneswar-2/10682/2018-19 for the assessment year 2019-2020 in the matter of penalty u/s.270A of the Act.

5. Shri P.K.Mishra, Id AR appeared for the assessee and Shri Saroj Kumar Dubey, Id CIT DR and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

6. In regard to ITA No.555/CTK/2024 for A.Y. 2020-21, It was submitted by Id AR that the Id CIT(A) has passed the order without providing reasonable opportunity of hearing to the assessee and for want of evidences and explanation. It was also submitted that the assessment order was passed during Covid period, therefore, the order passed by the Id

CIT(A) and the AO was made on gross violation of principles of natural justice. The AR emphasized that the assessee was willing to pursue the appeal and requested that the matter be restored to the file of the AO and the assessee may be given an opportunity to produce the submission of evidence supporting the claim.

7. It was submitted by Id AR in regard to penalty orders u/s. u/s.271AAC(1), 270A, 272A and 271D, that the appeals were not filed before the Id CIT(A) within the due date, therefore, there was delay of 438 days, 438 days, 460 days and 431 days. It was submitted by Id AR that the assessee has filed condonation petitions that although the impugned penalty orders were uploaded in the departmental portal, but the hard copies of the same were never supplied to the assessee nor the assessee had received the orders in e-mail. Therefore, the assessee had no knowledge about passing of such orders. It was also the submission that during the said period, the Director of the assessee company was seriously ill and was suffered from some severe neurological problems and was under direct supervision of Doctor for treatment. It was the submission that only after receipt of recovery notice and telephonic call from the department, assessee came to know about the penalty proceedings and downloaded the same and requested its professional to file appeals before the Id CIT(A). It was the submission that it was in this backdrop that there was delay in filing of appeals before the Id CIT(A) and the Id CIT(A) has not condoned

the request for condoning the delay and confirmed the penalty orders so passed by the Assessing Officer.

8. Similarly, in respect of ITA No.559/CTK/2024 for A.Y. 2019-20, Id AR contended the submissions as raised in ITA No.555/CTK/2024 for A.Y. 2020-2021 and requested for remitting the matter to the file of the Assessing Officer for re-adjudication.

9. ITA No.560/CTK/2024 is in relation to penalty levied u/s.270A of the Act. Id AR submitted that there was delay of 438 days in filing of appeal before the Id CIT(A). He reiterated the similar submissions were made in regard to penalties levied for the assessment year 2020-2021 in para 7 above and requested to condone the delay.

10. In reply, Id CIT DR and Sr DR argued that the assessee had been given multiple opportunities but the assessee failed to comply the same. In regard to penalty orders, Id CIT DR submitted that the reasons given for condoning the delay are not justified. The orders have been uploaded in the I.T. portal and the assessee was not vigilant to its tax matters.

11. We have heard the rival contentions and perused the material available on record. It is noticed that the quantum appeals for the assessment years 2019-20 and 2020-2021 have been passed without affording reasonable opportunity of hearing to the assessee and the

assessment orders have been passed u/s.147/144 of the Act due to non-compliance of the notices issued by the AO. Now, the Id AR has prayed that if one more opportunity is granted, the assessee will produce all the relevant documents and evidences in support of its claim.

12. Furthermore, the penalty orders were confirmed by the Id CIT(A) without condoning the delay. The assessee had furnished the plausible cause that although the penalty orders were uploaded by the department in the Portal but same were not sent through postal or email and as the Director was seriously ill due to neurological problems and under medical treatment, the appeals could not be filed within the stipulated period. We find the reasons given by the assessee for filing appeals delay before the Id CIT(A) are justifiable and the assessee would not gain anything by filing the appeals late. There is no mala fide imputable to the assessee. At the most for the inaction or a little negligence, the assessee can be burdened with the cost but its 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 interest of justice, we condone the delay in filing the appeals before the learned CIT(A) and restore the matter back to the file of Assessing Officer for re-adjudication.

13. As the assessee had not cooperated during the assessment proceedings, a cost of Rs.2,000/- is levied per appeal to the ITAT Bar Association within two months and the evidence of receipt be produced

before the AO. Non-payment of the cost would result the appeals of the assessee being treated as dismissed and the orders of the AO and Id CIT(A) upheld. The liberty is granted to the assessee to produce all the relevant documents, evidences and other details as are required to prove its case before the Assessing Officer.

14. In the result, appeals of the assessee stand partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 06/01/2025.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 08/01/2025
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Sahoo Distributors Private Limited, At-Banuganj Bazar, PO/PS: Chhatia, Dist: Jajpur
2. The Respondent: Asst. Commissioner of Income Tax, Central Circle, Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary
ITAT, CUTTACK