



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

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

**ITA No.478/CTK/2024**  
Assessment Year : 2019-2020

Shree Ganesh Power Tech Kulad, Nalco Nagar, Angul, Odisha,759145	Vs.	ITO Ward, Angul
PAN/GIR No.ABPFS 641 3D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri K.C Jena, CA  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 23/01/2025**  
**Date of Pronouncement : 23/01/2025**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id Addl/JCIT(A), Thane dated 18.9.2024 in Appeal No.ADDL/JCIT(A),Thane/10001/2018-19 for the assessment year 2019-20.

2. Shri K.C.Jena, Id AR appeared for the assessee and Shri S.C.Mohanty , Sr. DR appeared for the revenue.
3. Grounds Of Appeal are as under:

“1.On the facts and circumstances of the case learned ADDL/JCIT(A) erred on facts and in law in not considering the revised tax audit report filed on 24.06.2020 to remove the employees contributions of provident fund and ESI as the assessee has not deducted these statutory dues.

2.On the facts and circumstances of the case learned ADDL/JCIT(A) erred on facts and in law in not considering the fact that intimation u/s 143(1) is not an order and revised audit report has been filed before due date of completion of assessment.

3.On the facts and circumstances of the case learned ADDL/JCIT(A) erred on facts and in law in taking a view on filing of appeal belatedly only after issuing notice to submit written submissions.

4. On the facts and circumstances of the case learned ADDL/JCIT(A) erred on facts and in law in not considering filing of appeal on 17.06.2023 i.e. within due date after receipt of the intimation u/s 143(1) of I.T. Act on dated 30.05.2023.

5.On the facts and circumstances of the case learned ADDL/JCIT(A) erred on facts and in law in confirming the order of Id. Assistant Director of Income Tax, CPC in not giving opportunity to the assessee to clarify on the additions made before such additions in intimation u/s 143(1) of I.T. Act.”

4. We have considered the rival submissions and perused the record of the case. A perusal of the order of the Id JCIT(A) Tahne clearly shows that Id JCIT(A) has dismissed the appeal of the assessee by not condoning the delay of 749 days. However, if the period in regard to COVID19 is excluded, the delay would be from 1.3.2022 to 17.6.2023. The assessee has also filed explanation on 17.7.2024 before the JCIT(A) explaining the reasons for the delay. The reasons furnished by the assessee are found to be plausible and not false. The reasons given by the assessee are as follows:

**BEFORE THE ADDITIONAL/JOINT COMMISSIONER OF INCOME TAX (APPEALS), THANE**

In the matter of

Shree Ganesh Power Tech (PAN- ABPFS6413D)  
Kulad, Kulad Nalco Nagar,  
Angul-759145

AND

In the matter of

Appeal proceedings for A.Y. 2019-20  
Appeal No: ADDL/JCIT(A) THANE/10001/2018-19

Response to notice u/s 250 of I.T. Act dated 11.07.2024

**MOST RESPECTFULLY SHEWETH:**

1. The aforesaid notice is fixed to hearing on 18.07.2024 to show cause for delay in filing the appeal and why the appeal should not be dismissed. To explain the issue and matters involved in this case the assessee submits herewith the events chronologically leading to this stage of appeal.

Date	Particulars	Involved persons/authorities
15.05.2023	Recovery of outstanding demand	ITO, Angul
17.05.2023	Reply of the assessee request to issue information u/s 143(1)	Assessee
17.05.2023	Recovery of outstanding demand	ITO, Angul
30.05.2023	Date of receipt of order from I.T. Portal	Assessee
17.06.2023	Date of filing appeal	Assessee
31.05.2024	Notice u/s 250 fixing date to 18.06.2024	ADDL/JCIT (A)/Thane
18.06.2024	Written submission ground-wise submitted	Assessee
11.07.2024	Notice u/s 250 fixing date to 18.07.2024 to show cause for delay	ADDL/JCIT (A)/Thane

2. From the above it is crystal clear that the assessee was intimated of the demand on dated 15.05.2023. On 17.05.2024 the assessee requested for order/intimation which was replied like this:

"Please refer to your reply dt. 16.05.2023 in response to this officer letter dt. 15.05.2023 vide which you have stated that demand of Rs. 13,21,800/- for the A.Y. 2019-20.

In this regard, it is to be intimated to you that the demand created in your case u/s. 143(1) of the Act cannot be waived by this office. You are required to file appeal before the commissioner of Income tax (Appeals), who is the competent authority to decide your case, if you are aggrieved with the above demand."

Consequently, the assessee had to access down the IT portal to find out the intimation u/s 143(1) of IT Act which resulted in the demand of Rs.13,21,800/-. Hence, the intimation was known to the assessee only on 30.05.2023. Till that date the assessee had not received any intimation either by mail or in hard copy. It is essential for any Assessing Officer to confirm that the intimation/order was actually delivered. Secondly, an order which imposes tax is desired to be delivered in physical form. Unless an assessee is aware of the demand he cannot take further step on that order. Thirdly, all the assesseees are not well-conversant with email system that to check it regularly (even if at all it is issued).

Ultimately it can be inferred that the intimation was known to the assessee only on dated 30.05.2023, but the intimation was never delivered to the assessee. After receipt of the intimation it has taken next course of action. Had the assessee received the intimation earlier he would have resorted to the appeal channel which has been done in this case.

3. From the chronological events it can be known that against notice dated 31.05.2024 u/s 250 of I.T. Act, 1961 for A.Y. 2019-20 the assessee has submitted written submissions. In this notice the assessee was asked to comply to this requirement- "In support of your grounds of appeal you are requested to furnish ground-wise written submission along with supporting documents, if any."

It means that appeal was already admitted on or before 31.05.2024. Then on 31.05.2024 the assessee was asked to submit the written submissions on merit. So, at this moment i.e., on 11.07.2024, to talk of dismissal of appeal for belated appeal tantamounts to reversal of earlier view taken on 31.05.2024. It is violation of process of appeal proceedings.

4. If the information was known on dated 30.05.2023 and the appeal was filed on date.17.06.2024, there was no delay at all in filing the appeal.

With the above submissions it can be viewed that the assessee is not at fault at any moment in the appeal process i.e., receipt of intimation, filing of appeal, submission of written submissions ground-wise and now compliance to alleged delay in filing of appeal.

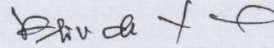


PRAYER

Keeping the above explanations and submissions in view the appellant prays your honour not to treat it as belated filing of appeal and to consider the appeal on merit.

And for which act of your kindness the appellant as in duty bound shall ever prayed.

For Appellant



(K.C. JENA) F.C.A  
Authorized Representative

Date: 17.07.2024  
Place: Bhubaneswar

Encl:

1. Copy of issue letter for recovery of outstanding demand dated 15.05.2023.
2. Reply of the assessee request to issue information u/s 143(1).
3. Copy of issue letter for recovery of outstanding dated 17.05.2023.
4. Notice u/s 250 fixing date to 18.06.2024.
5. Notice u/s 250 fixing 18.07.2024 to show cause for delay dated 11.07.2024.

5. This being so, in the interest of justice, the delay in filing of appeal before the Id JCIT(A), Thane is condoned and the issues are restored to his file for fresh adjudication on merits after allowing adequate opportunity of hearing to the assessee.

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

Order dictated and pronounced in the open court on 23/01/2025.

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

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

Cuttack; Dated 23/01/2025

B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant :  
Shree Ganesh Power Tech  
Kulad, Nalco Nagar, Angul,  
Odisha,759145

2. The Respondent: ITO Ward, Angul  
3. The JCIT(A)- Thane  
4. Pr.CIT,  
5. DR, ITAT,  
6. Guard file.  
//True Copy//

**By order**

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

