



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

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

ITA No.481/CTK/2024
Assessment Year : 2017-2018

Kanhu Charan Gouda Rohibanka, Odagaon, Nayagarh, Khordha-752090	Vs.	ITO,Khordha
PAN/GIR No.AUBPG 5312 Q		
(Appellant)	..	(Respondent)

Assessee by : Shri K. K. Bal, Adv
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
CIT(A), NFAC, Delhi dated 26.4.2024 in Appeal No.
NFAC/201617/10307110 for the assessment year 2017-2018.

2. Shri K.K.Bal, Id AR appeared for the assessee and Shri S.C.Mohanty,
Sr. DR appeared for the revenue.
3. The assessee has raised following grounds of appeal:

1. For that the order of the forum below is arbitrary, illegal and unjust both in fact and law, hence liable to be quashed.
2. For that Ld, CIT(A) erred in passing order by violating the provisions of sec 250(4) & (5) of the IT Act and without adjudicating the grounds taken. Therefore the impugned order is arbitrary and illegal and deserves to be quashed and set aside.
3. For that the Ld. CIT(A) erred in passing an ex parte order for prosecution without proper communication of notices and without providing sufficient opportunity being heard. Therefore the order passed by violating the principles of natural justice is not sustainable and deserves to be quashed and set aside.
4. For that the Ld. CIT(A) erred in making addition of the 69A of the Income tax act on the entire credits of public money in the Bank account bearing No-2790002100001224 in Punjab National Bank at Rs. 1,36,14,133/- used as a Banking correspondence Account. Since the credits in the Bank account are public money and not the money of the Assessee the additions are not sustainable and deserve to be deleted.
5. For that Ld. A.O erred in treating the cash deposits received for and on behalf of the bank and credits by Bank by debiting the account of customers who have withdrawn through Micro ATM provide to the Assessee as unexplained money without understanding the fact in proper perspective. Therefore the addition is non application of mind and deserves to be deleted.”
4. The appeal is barred by limitation by 144 days. The assessee has filed condonation petition 21.11.2024 supported by affidavit, stating the reason that although the appeal order was uploaded by NFAC in the portal on 26.4.2024 but same came to the knowledge of the assessee on 10.10.2024. In this regard, it is stated that since the assessee was unaware about assessing the portal and totally dependent on his counsel, he could not know the status of the appellate proceedings. Further, due to the illness of the father of the assessee, he was staying at Bhubaneswar, which is more than 150 kms from his village. It is stated that as soon as the

assessee came to know about the appellate order, he immediately contacted his counsel to file the appeal before the Tribunal, for which, there was delay of 144 days. It is prayed that the delay in filing the appeal be condoned and appeal be decided on merits.

5. After considering the petition and hearing the parties, we found that the explanation furnished by the assessee has not been found to be false. We, accordingly, condone the delay of 144 days and admit the appeal for adjudication.

6. We have gone through the orders of the Assessing Officer and Id CIT(A). We observe that there was no representation from the side of the assessee before the Assessing Officer, which resulted into an exparte assessment order passed u/s 144 of the Act. It is submitted by Id AR that the assessee is a Bank Mitra and collect the money from the customers on behalf of the bank and deposit the same in the bank account for onward transmission to the Bank. The Assessing Officer without considering the same has made addition of total deposit in the bank as unexplained money of the assessee. It is stated by Id AR that if the matter is restored to the file of the Assessing Officer, the assessee will produce all the relevant documents/evidences regarding cash receipt from the customers on behalf of the bank. In view of above, as the assessment order has been passed u/s.144 of the Act, in the interest of justice, the issues in this appeal are restored to the file of the Assessing Officer for making the assessment

denovo after providing reasonable opportunity of hearing to the assessee. The liberty is granted to produce all such evidences as are required for adjudication of the issue afresh by the Assessing Officer.

7. 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

निष्पक्ष सुलभ

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 23/01/2025
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Kanhu Charan Gouda
Rohibanka, Odagaon, Nayagarh,
Khordha-752090
 2. The Respondent: ITO, Khordha
 3. The CIT(A)- NFAC, Delhi
 4. Pr.CIT,
 5. DR, ITAT,
 6. Guard file.
- //True Copy//

IMPARTIAL, EASY AND
SPEEDY JUSTICE

By order

Sr.Pvt.Secretary
ITAT, Cuttack