



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

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

ITA No.501/CTK/2024
Assessment Year : 2016-17

Sri Baidyanarth Memorial Trust, Plot No.338, Sahid Nagar, Bhubaneswar.	Vs.	Income Tax officer, Exemption Circle, Bhubaneswar
PAN/GIR No.AAHTS 6816 R		
(Appellant)	..	(Respondent)

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

Date of Hearing : 30/01/2025
Date of Pronouncement : 30/01/2025

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 19.1.2024 in Appeal No. CIT(A), Bhubanbeswar-3/10134/2018-19 for the assessment year 2016-17.

2. Shri Bibekananda Mohanty, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. The appeal is time barred by 253 days. The assessee has filed necessary condonation petition supported by affidavit, stating the reasons that although the appeal was supposed to be filed on 19.3.2024, however as the Chief Functionary of the Trust was suffering from acute fever and body aches and was advised to take rest by the physicians. During that the office support staff viewed the mail regarding the order of Id CIT(A) but could not bring to the notice of the Chief Functionary. Therefore, there was delay of 253 in filing of appeal before the Tribunal. The reasons stated in the petition have not been found to be false and, therefore, we condone the delay and admit the appeal for hearing.

4. It was stated by Id AR that before the Assessing Officer, the assessee had not been able produce all the documents necessary for completion of assessment, therefore, the Assessing Officer completed the assessment u/s 143(3) of the Act considering the partial documents. It was also further submission that Id CIT(A) has passed the order exparte without providing reasonable opportunity to the assessee to furnish the documents and evidences to substantiate its case. However, it was his prayer to grant one more opportunity to file the evidences before the Id CIT(A).

5. In reply, Id Sr DR supported the orders of lower authorities.

6. We have considered the rival submissions. A perusal of the assessment order clearly shows that the assessee has filed some evidences

and documents and the assessment has been completed u/s 143(3) of the Act. However, on appeal, Id CIT(A) has passed the order exparte. A perusal of the order of the Id CIT(A) clearly shows that the notices were served through ITBA six times and the assessee has failed to comply with the requirement of any of these notices issued or make any submissions in response to communication window enabled. In the absence of any written submissions or documents in support of the claim of the assessee, the appeal was decided on the basis of the materials as are available in the record. Before us, Id AR has undertaken to cooperate in the set aside proceedings, if the matter is restored to the file of the Id CIT(A). Therefore, in the interest of justice, the issues in this appeal are restored to the file of the Id CIT(A) for fresh adjudication. Simultaneously, the assessee is directed to produce all such evidences and documents necessary for substantiating its claims before Id CIT(A). As the assessee has failed to file all the documents as also failed to comply with the notices issued by the Id CIT(A). a cost of Rs.10,000/-(Rupees ten thousand only) is to be paid to the ITAT Bar Association within two months and the evidence of receipt be produced before the CIT(A) on the first date of hearing. Non-payment of the cost within the prescribed time will lead to confirmation of the order of the Id CIT(A).

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

Order dictated and pronounced in the open court on 30/01/2025.

SD/-
(Manish Agarwal)
ACCOUNTANT MEMBER

SD/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated – 30/01/2025
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Sri Baidyanarth Memorial Trust, Plot No.338, Sahid Nagar, Bhubaneswar
 2. The Respondent: Income Tax officer, Exemption Circle, Bhubaneswar
 3. The CIT(A)- NFAC, Delhi
 4. Pr.CIT, Bhubaneswar-3.
 5. DR, ITAT,
 6. Guard file.
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By order

Sr.Pvt.Secretary
Itat, cuttak