



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

**BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT(KZ)
AND , ACCOUNTANT MEMBER**

ITA No.239/CTK/2025
Assessment Year : 2017-18

Saroj Kumar Senapati Patharadi, Charampa, Bhadrak, 756101	Vs.	ITO, Bhadrak Ward, Bhadrak
PAN/GIR No. AYCPS 1847 B		
(Appellant)	..	(Respondent)

Assessee by : Shri B.R.Panda, Adv
Revenue by : Shri S.C.Mohanty, Sr. DR

Date of Hearing : 30/06/2025
Date of Pronouncement : 30/06/2025

ORDER

The present appeal is directed at the instance of assessee against the order of Id.Addl/JCIT(A)-2, Mumbai dated 24/11/2023 IN Appeal No. CIT(A),Cuttack/10955/2019-20 passed for Assessment Year 2017-18.

2. The appeal filed by the assessee is time barred by 448 days. The assessee has filed condonation petition supported by an affidavit stating that due to frequent health problems, he could not consult the advocate about the order being passed by the Id CIT(A). Even otherwise, the order passed by the Id CIT(A) is an exparte order and the assessee was not

aware of the same. He prayed that the delay in filing the appeal before the be condoned. Ld Sr DR opposed the condonation petition.

3. After hearing the parties and perusing the condonation petition, I am satisfied that the assessee had reasonable cause in not filing then appeal before the Tribunal within the stipulated time, therefore, I condone the delay of 446 days and admit the appeal for adjudication.

4. Brief facts of the case are that the assessee is an individual carrying on rice business on wholesale basis filed his return of income for the assessment year 2017-18 on 21.3.2018 disclosing net income at Rs.2,98,520/-. The case was selected for scrutiny on the alleged substantial cash deposits in the bank. The Assessing Officer noticed that the total cash deposit in two banks was Rs.99,27,624/-. Accordingly, the AO required the assessee to furnish the source of cash deposited in the bank by issuance of notice u/s.143(2) and 142(1) of the Act. However, the assessee has not complied with the notices. Even, the show cause notice was not complied with. As the assessee failed to produce all books of account, bills and vouchers in support of the expenditure, therefore, the genuineness of cash deposit in the bank was doubted by the AO. Hence, the AO treated the total credit in the bank of Rs.99,27,624/- as turnover and estimated the profit @ 8%, which comes to Rs.7,94,210/-. Thus, the estimated profit of

Rs.7,94,210/- was treated as income under the head "profits and gains of business profession" and deduction claimed was not allowed.

5. On appeal, the Id CIT(A) dismissed the appeal of the assessee due to non-compliance to the notices issued. Hence, the assessee is in further appeal before the Tribunal.

6. At the time of hearing, Id AR of the assessee submitted that the Id CIT(A) has passed the order ex parte without affording reasonable opportunity to the assessee. He further submits that the profit rate estimated by the AO by applying the section 44AD @ 8% is excessive considering the nature of business. He further submits that the matter be restored to the file of the CIT(A) and the assessee will comply with the notices for fresh adjudication.

5. In reply, Id Sr DR opposed the prayer of the assessee.

7. I have considered the rival submissions. It is an admitted fact that due to non appearance by the assessee before the CIT(A), the Ld. CIT(A) decided the appeal ex parte and dismissed the appeal of the assessee. It is the submission of the Ld. Counsel for the assessee that if an opportunity is given, he is in a position to substantiate his case before the Id CIT(A) as the Id CIT(A) has passed the order due to con-compliance of the notices. Considering the totality of the facts of the case and in the interest of justice

I deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case. The assessee is also hereby directed to appear before the CIT(A) without seeking any adjournment under any pretext failing which the Ld. CIT(A) is at liberty to pass appropriate order as per law. The grounds raised by the assessee are accordingly allowed for statistical purpose.

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

Order dictated and pronounced in the open court on 30/06/2025.

Sd/-
(DUVVURU RL REDDY)
VICE PRESIDENT

Cuttack: Dated 23/06/2025
B.K.Parida, Sr. PS (OS)

Copy of the Order forwarded to :

1. The Appellant : Saroj Kumar Senapti
Patharadi, Charampa, Bhadrak, 756101
2. The Respondent : ITO, Bhadrak Ward, Bhadrak
3. The Addl/JCIT(A)-2, Mumbai
4. Pr.CIT-Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Asst.Registrar,
Itat, cuttack