



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

**BEFORE S/SHRI DUVVURU RL REDDY, VICE PRESIDENT(KZ)
AND RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA No.277/CTK/2025
Assessment Year : 2019-20

Barun Service Co-operative Society Limited, At- Barun, P.O. – Barun Kabirpur, Jajpur, 755009	Vs.	ITO, Jajpur Ward, Jajpur
PAN/GIR No. AABAB 1364 N		
(Appellant)	..	(Respondent)

Assessee by : Shri N.R.Biswal, CA
Revenue by : Shri Ashim Kr Chakraborty, CIT DR

Date of Hearing : 02/07/2025
Date of Pronouncement : 02/07/2025

ORDER

Per Bench

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NAFC), New Delhi NFAC), Delhi dated 19/02/2025 in Appeal No.ITBA/NFA/S/250/2024-25/1073467217(1) passed for Assessment Year 2019-20.

2. The appeal is time barred by 1 day. The assessee has filed condonation petition dated supported by an affidavit stating the reasons for not filing the appeal within the date. Considering that there is only 1 day delay in filing the appeal, we condone the delay of 1 days and admit the appeal for hearing.

3. Brief facts of the case are that the assessee is an AOP filed his return of income for A.Y. 2019-20. The case was reopened u/s.147 of the Act and notice u/s.148 of the Act was issued to the assessee requiring to file the return of income and submit document tary evidence regarding the cash deposits in the bank. However, the assessee neither file the return of income nor provide any information. Subsequently, various notices u/s.142(1) were issued and served upon the assessee requiring to furnish the documentary evidence but the assessee failed to comply with the same. Therefore, the Assessing officer completed the assessment u/s.147 r.w.s 144 r.s.w 144b of the Act on 12.1.2024 assessing the total of the assessee at Rs.7,02,93,830/- after making addition of Rs.7,00,66,643/- on account of unexplained money u/s.69A of the Act and Rs.2,27,187/- on account of income from other sources.

4. Being aggrieved, the assessee carried the matter in appeal before the Id CIT(A) with a delay of 233 days. Before the Id CIT(A), it was submitted by the assessee that due to some technical glitch and time barring work, its tax consultant could not file the appeal within 30 days

from the date of order passed by the Assessing Officer. The Id CIT(A) did not condone the delay on the ground that the assessee has neither elaborated upon the reasons nor substantiated the same by way of any documentary evidence. Hence, the assessee is in further appeal before the Tribunal.

5. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has passed an ex parte order without going into the merits of the case. According to the Ld.AR, since there was a delay of 233 days in filing of the appeal before the Ld.CIT(A), he dismissed the appeal of the assessee. According to the Ld.AR, the delay in filing of the appeal before the Ld.CIT(A) was not deliberate. He prayed that the delay in filing the appeal before the Id CIT(A) be condoned and the issue be restored to the file of the Id CIT(A) for considering the issue on merits after hearing the assessee.

6. On the other hand, learned Departmental Representative vehemently objected to the submissions of the learned Counsel for the assessee and argued that the appeal filed by the assessee was not maintainable before the learned CIT(A) due to abnormal delay of 233 days. The assessee has failed to furnish sufficient cause for the substantial delay and, therefore, the learned CIT(A) was justified in not condoning the delay in filing the appeal and dismissed the same on the ground of limitation.

7. We have heard the rival contentions and perused the material available on record. We note that the Ld.CIT(A) has noted that there was a delay of 233 days in filing of the appeal before him. Therefore, he didn't condone the delay and dismissed the appeal on the ground of limitation. We do not countenance such an action of the Ld.CIT(A). If assessee is aggrieved by the action of the AO, he has statutory right to appeal before the Ld.CIT(A) and the Ld.CIT(A) is duty bound to decide the appeal in accordance to law as per sub-section (6) of sec.250 of the Act. In this case, the tax consultant of the assessee could not file the appeal within the time. For the negligence of the tax consultant, the assessee should not be penalised as delaying the appeal, the assessee will not get any benefit. In our considered opinion, such delay needs to be condoned, because the assessee was vigilant and was pursuing its legal rights in right earnest. In view of forgoing discussions, we condone the delay in filing the appeal before the Id CIT(A) and set aside the impugned order passed by the learned CIT(A) and restore the entire matter to his file for readjudication of the grounds of appeal raised by the assessee on merit by considering the evidences and materials on record and after providing reasonable opportunity of being heard to the assessee in accordance with law. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order dictated and pronounced in the open court on 2/7/2025.

Sd/-
(RAJESH KUMAR)
Accountant Member

Sd/-
(DUVVURU RL REDDY)
VICE PRESIDENT

Cuttack: Dated 2 /7/2025
B.K.Parida, Sr. PS (OS)

Copy of the Order forwarded to :

1. The Appellant : Barun Service Co-operative Society Limited, At- Barun, P.O. – Barun Kabirpur, Jajpur, 755009
2. The Respondent : ITO, Jajpur Ward, Jajpur
3. The CIT(A)-,
4. Pr.CIT-
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Asst.Registrar,
Itat, cuttack