

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA Nos.507 to 511 and 513 & 514/CTK/2025
(निर्धारण वर्ष / Assessment Years : 2008-09,2012-13,2013-14,
2014-15,2017-18,2019-20 & 2020-2021)

Cuttack Central Co.Op. Bank Ltd., , Balikuda, At/PO: BaLIKUDA, Jagatsinghpur	Vs	DCIT, Circle-1(1), Cuttack
PAN No. : AAABC 0373 Q		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri N.R.Biswal, CA
राजस्व की ओर से /Revenue by	:	Shri Ashim Kr Chakraborty, CIT DR and Shri Vijaya Singh, Id Sr DR
सुनवाई की तारीख / Date of Hearing	:	2 /12/2025
घोषणा की तारीख/ Date of Pronouncement	:	2 /12/2025

आदेश / ORDER

Per Bench :

These are appeals filed by the assessee against the separate orders dated 15,2,2024 in Appeal No.CIT(A),Cuttack/10085/2017-18 passed by JCIT(A)-1, Pune for assessment year 2008-09, order dated 31.7.2024 in Appeal No.CIT(A),Cuttack./10280/2015-16, 30.4.2024 in Appeal No. CIT(A),Cuttack/10091/2016-17, 16.5.2023 in Appeal No.CIT(A),Cuttack/10430/2016-17, 24.5.2024 passed by CIT(A), NFAC, Delhi and in Appeal No.CIT(A),Cuttack/10849/2019-20, dated 29.1.2025 passed by JCIT(A)-13, Mumbai in Appeal No.NFAC/2018-19/10188114 & 19.7.2024 passed

by CIT(A), NFAC, Delhi in Appeal No. for the assessment years 2012-13,2013-14,2014-15,2017-18,2019-20 & 2020-21, respectively.

2. Shri N.R.Biswasal, Id AR appeared for the assessee and Shri Ashim Kr Chakraborty, Id CIT DR and Shri Vijaya Singh, Id Sr DR appeared for the revenue.

3. At the outset, it is found that appeals filed by the assessee are barred by limitation as under:

<u>Asst. Year</u>	<u>Delay</u>
2008-09	511
2012-13	358
2013-14	450
2014-15	785
2017-18	419
2019-20	176
2020-21	358

4. The assessee has filed condonation petitions supported by affidavits stating the reasons that the assessee came to know only the appellate order already passed after getting the demand notice from the Jurisdictional Assessing officer. Then, the assessee verified the appellate orders being passed. No order has been received by e-mail. Since, no orders were received by the assessee, appeals could not be filed before the Tribunal, therefore, there were delay in filing the respective appeals as above. It was submitted that non-filing of appeals was un-intentional.

5. It was also submitted that the Id JCIT(A), NFAC have dismissed two appeals on the ground of delay in filing of appeals before them. The reasons given by the assessee for non-filing of appeals within the due date have not been accepted and the appeals were dismissed in limine. It was requested to condone the delay in filing of appeals before the Id CIT(A) and the matter be

restored to his file for fresh consideration after affording reasonable opportunity of hearing to the assessee.

6. In reply, Id CIT/Sr DR opposed the condonation petitions filed before the Tribunal as also supported the orders passed by Id CIT(A)/NFAC/JCIT(A), NFAC.

7. We have considered the rival submissions. A perusal of impugned orders for the assessment years 2012-13, 2013-14, 2014-15, 2017-18 & 2020-21, shows that the Id CIT(A), NFAC has dismissed the appeals due to non-representation despite giving sufficient opportunities to substantiate the grounds of appeal. For the assessment years 2008-09 and 2019-20, the Id JCIT(A) has not condoned the delay in filing the appeals and dismissed the appeals in limine.

8. The reasons stated in the condonation petitions that no order was received as stated by the assessee in the affidavit, seems to be plausible and not found to be false. Accordingly, the delay as stated above, in filing the respective appeals by the assessee is condoned and the appeals of the assessee are admitted for hearing.

9. In respect of dismissing the appeals filed by the Id JCIT(A) in limine on the ground of delay, we have gone through the reasons stated in the condonation petitions filed before the Id CIT(A). Section 249(3) of the Income Tax Act, provides powers to the Id Commissioner of Income Appeals to condone the delay in filing the appeal before him. It has been used in Section 5 of Indian Limitation Act, 1963 that whenever interpretation and construction before the Hon'ble High Court as well as before the Hon'ble Supreme Court, then the Hon'ble Courts were unanimous in their conclusion that the expression is to be used liberally. Reference is made to the decision of Hon'ble Supreme Court in

the case of Collector Land Acquisition vs Mst. Katiji & Othrs, (1987) 167 ITR 41 (SC), wherein, it has been held as under:

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a nondeliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

10. It is sufficed to say that the Hon'ble Courts are unanimous in their approach to propound that whenever the reasons assigned by an applicant for explaining the delay, then such reasons are to be construed with a justice-oriented approach. A litigant does not stand to benefit by resorting to delay. In fact, the assessee runs a serious risk. In the instant case, the delay was attributable specifically due to faceless regime as the notices were sent through online only. Due to some reasons or other, the notice of hearing was not in the knowledge of the assessee, as stated in the condonation petition.

11. In the light of above discussion, we are of the considered view that the assessee in its averments has made out a clear case that there was sufficient cause being its control prevented from filing the appeals before the Id CIT(A) in time. The assessee is diligent in its responsibility as the appeals have been filed before the Tribunal against the orders of the Id JCIT(A). We, accordingly, condone the delay in filing the appeals before the Id JCIT(A) in both the assessment years under consideration and set aside the issues to the file of the Id CIT(A) as he has not applied his mind on facts on the merit of the issues. In other appeals, the Id CIT(A), NFAC has dismissed the appeals for non-representation only and Id CIT (A) has not adjudicated the issue on merits. Therefore, we remit the issues to the file of the Id.CIT(A) for fresh adjudication on merit after providing reasonable opportunity of hearing to the assessee. The assessee will be liberty to raise any plea on merit for all the appeals. It is also noticed that the claim of provision for overdue interest for the assessment year 2008-09 was before the AO, which has not been considered. Therefore, this plea of the assessee is also to be considered while disposing the appeal for the assessment year 2008-09 as per law.

12. In the result, appeals of the assessee stand partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 2/12/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

दिनांक Dated 2/12/2025

B.K.Parida, Sr.P.S(OS)

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Cuttack Central Co.Op.
Bank Ltd., , Balikuda, At/PO: Balikuda,
Jagatsinghpur
2. प्रत्यर्थी / The Respondent- **ACIT, Circle-2(1),
Cuttack**
3. आयकर आयुक्त(अपील) / The CIT(A), NFAC, Delhi,
JCIT(A), Mumbai and Pune
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कटक**
/ DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण, कटक/ITAT,
Cuttack