

**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.546 & 547/CTK/2025

(निर्धारण वर्ष / Assessment Years : 2018-19 )

Braja Kishroe jena, Panaspur , Balichandrapur, Cuttack-754205	Vs	ITO, Ward-1(1), Cuttack
PAN No. : <b>AGTPJ 0322 P</b>		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri B.K.Mohapatra, Adv
राजस्व की ओर से /Revenue by	:	Shri Vijaya Singh, Id Sr DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	4 /12/2025
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	4 /12/2025

**आदेश / ORDER**

**Per Bench :**

ITA No.547/CTK/2025 is an appeal filed by the assessee against the order dated 13.8.2025 passed by Id CIT(A), NFAC, Delhi in Appeal No.NFAC/2017-18/10234451 for the assessment year 2018-19 in the matter of assessment u/s.143(3) of the Act. ITA No.546/CTK/2025 is an appeal filed by the assessee against the order dated 13.8.2025 passed by Id CIT(A), NFAC in Appeal No.NFAC/2017-18/10238048 for the assessment year 2018-19 in the matter of penalty u/s.270A of the Act.

2. Shri B.K.Mohapatra, Id AR appeared for the assessee and Shri Vijaya Singh, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR the Id CIT(A) has dismissed both the appeals in limine without condoning the delay although the cause for delay was furnished before him. He submitted that the assessee had sufficient reason for not filing the delay before the Id CIT(A). It was requested that as the assessee has prima facie good case, the Id CIT(A) be directed to condone the delay and adjudicate the appeals on merits.

4. In reply, Id Sr DR opposed the request of Id AR of the assessee

5. We have considered the rival submissions. We find that there was delay of 410 days in quantum appeal and 539 days in the penalty appeal. In the condonation petition before the Id CIT(A), it was categorically stated that the assessee is an illiterate person having education upto primary standard and living in remote village area and does not familiar with the intricacies of e-assessment introduced for the first time and even he does not know how to open the income tax portal. For the above reason, the notice of hearing issued by the Id CIT(A) was not in the knowledge of the assessee and accordingly consequential orders passed by the Id CIT(A). Even otherwise, the assessee was seriously ill and furnished medical certificate and prescription in support of the illness. The above reasons were not found favour to the Id CIT(A) and he dismissed the appeals in limine.

6. The Hon'ble Supreme Court in the case of Collector Land Acquisition vs Mst. Katiji & Othrs, (1987) 167 ITR 41 (SC), has 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."

7. 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 the fact that the assessee is an illiterate person residing in remote area and does not have any knowledge about opening of income tax portal. He depends on his legal counsel who is staying at Cuttack. Be that it may, by delaying the appeal, the assessee would not get any benefit. We are of the view that the explanation of the assessee is not found to be false and, accordingly, we condone the delay in filing the appeals and restore the issues to the file of the Id CIT(A) for adjudicating the issue afresh after allowing reasonable opportunity of hearing the assessee. Should the assessee not

cooperate in the set aside proceedings, the Id CIT(A) is free to take adverse inference.

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

Order dictated and pronounced in the open court on 4/12/2025.

**Sd/-**

(राजेश कुमार)

**(RAJESH KUMAR)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

दिनांक Dated 4/12/2025

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

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

1. Braja Kishroe jena, Panaspur , Balichandrapur, Cuttack-754205
2. प्रत्यर्थी / The Respondent- ITO, Ward-1(1), Cuttack
3. आयकर आयुक्त(अपील) / The CIT(A), NFAC
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