



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

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No.87/CTK/2021

Assessment Year : 2016-17

Kendrapara Credit Co-operative Society Ltd., At: New Bus Stand, PO:Dist- Kendrapara	Vs.	Income Tax Officer, Ward, Kendrapara
PAN/GIR No.AABAK 6558 P		
(Appellant)	..	(Respondent)

Assessee by : Shri C.Parida, AR

Revenue by : Shri M.K.Gautam, CIT (DR)

Date of Hearing : 07/6/ 2022

Date of Pronouncement : 07 /6/2022

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 19.3.2021 in Appeal No.CIT(A), Cuttack /10165/2019-20 for the assessment year 2016-17.

2. The appeal is barred by limitation by 87 days. The assessee has filed condonation petition, stating therein that due to shutdown and lockdown on account of COVID-19, it was not possible to have consultation and preparation of appeal with the legal consultant resulting in the delay of 86

days in filing of appeal. It is prayed that the delay in filing the appeal be condoned. Ld CIT DR did not object to the condonation of delay.

3. After going through the condonation petition, we find that the assessee had reasonable cause for not filing the appeal within the stipulated time. We, therefore, condone the delay 87 days in filing the appeal before the Tribunal and admit the appeal for hearing.

4. The sole ground taken in this appeal by the assessee is that the Id CIT(A), NFAC is not justified in confirming the penalty of Rs.1,50,000/- levied u/s.171B of the Act by the Assessing Officer.

5. Shri C.Parida, Id AR appeared for the assessee and Shri M.K.Gautam, Id CIT DR appeared for the revenue.

6. It was submitted by Id AR of the assessee that the audit report of the assessee was not submitted in time because same was received belatedly from the statutory auditors, who are to do the audit of the assessee as per the Co-operative Society Act. It was the submission that the delay in getting the report of audit done by the statutory auditors was beyond the control of the assessee. It was the prayer that the penalty as levied by the AO and confirmed by the Id CIT(A) may be deleted.

7. In reply, Id CIT DR vehemently supported the order of the AO and Id CIT(A). It was the submission that the assessee has been absolutely non-co-operative and there is no compliance before the AO nor the Id CIT(A) in

respect of the reasons for delayed audit accounts. It was the submission that if at all, the assessee has the reasonable cause, he could have filed before the AO and Id CIT(A). It was the submission that the penalty as levied by the AO and confirmed by the Id CIT(A) was liable to be upheld.

8. We have considered the rival submissions. A perusal of the facts as recorded by the AO shows that the delay in submitting the audit report was on account of delay in obtaining audit report from the statutory auditors. It is fairly admitted that the statutory auditors is appointed by the Registrar of Co-operative Societies and not by the assessee. This being so, we are of the view that the assessee has sufficient and reasonable cause for delay in obtaining the audit report. It is also an admitted fact that the audit report was available before the AO, when the assessment was done. This being so, we are of the view that it is a fit case for deletion of penalty u/s.271B of the Act. Consequently, the penalty levied by the AO U/S.271B of the Act and confirmed by the Id CIT(A) stands deleted.

9. In the result, appeal of the assessee is allowed

Order dictated and pronounced in the open court on 7 /6/2022.

Sd/
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 7/06/2022
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Kendrapara Credit Co-operative Society Ltd., At: New Bus Stand, PO:Dist-Kendrapara
2. The Respondent. Income Tax Officer, Ward, Kendrapara
3. The CIT(A)-,NFAC, Delhi
4. Pr.CIT-, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack