



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.2137 of 2025**

**Dinesh Chandra Das** ..... **Petitioner**

**-Versus-**

**Income Tax Officer, Ward-1, Baripada  
and others** ..... **Opposite Parties**

**Advocates appeared in this case:**

For Petitioner : Mr. Jagabandhu Sahoo, Senior Advocate  
Ms. Kajal Sahoo, Advocate

For Opposite Parties : Mr. S.C. Mohanty, Senior Standing Counsel  
Mr. A. Kedia, Junior Standing Counsel

**CORAM:**

**THE HON'BLE MR. JUSTICE ARINDAM SINHA,  
ACTING CHIEF JUSTICE  
AND  
THE HON'BLE MR. JUSTICE M.S. SAHOO**

**J U D G M E N T**

-----  
**Date of hearing and judgment: 3<sup>rd</sup> February, 2025**  
-----

**ARINDAM SINHA, ACJ.**

1. Mr. Sahoo, learned senior advocate appears on behalf of petitioner-assessee. He submits, impugned is notice dated 25<sup>th</sup> July,



2024 of attachment. He points out from the notice, it is in respect of some assessment years between assessment years 2008-09 and 2014-15. His client's challenge to the notice is in respect of assessment years 2008-09 and 2009-10.

2. For the relevant assessment years, there was assessment on reopening. Several allegations were made including of unexplained expenditure. His client had preferred appeal to the First Appellate Authority. The appeal was within time but submitted manually, instead of electronically.

3. In fairness he points out, there was circular dated 26<sup>th</sup> May, 2016 requiring revenue to treat appeals filed in paper form manually as invalid appeals. By order dated 21<sup>st</sup> June, 2023 the First Appellate Authority dismissed his client's appeal as invalid.

4. He submits, the Income Tax Appellate Tribunal, Mumbai Bench in **ITA no.426/M/2018 (M/s. Asterix Reinforced Ltd., v. Income Tax Officer)** had in similar facts relegated to the First Appellate Authority, admission of appeal in electronic form on condoning delay. He seeks likewise direction upon the First Appellate Authority to permit his client to file appeal in electronic form and admit the same on condoning the delay.



5. Mr. Mohanty, learned advocate, Senior Standing Counsel appears on behalf of Revenue. He submits, the appeal was duly dismissed as invalid following the circular. There is no scope for interference.

6. Sub section (3) in section 249 of Income Tax Act, 1961 provides for the First Appellate Authority to admit appeal by exercise of discretion, where it is filed after the expiration of the period, on satisfaction that appellant had sufficient cause for not presenting it within the prescribed period. In this case we see that the appeal was filed manually and within time. The appeal stood dismissed as invalid on 21<sup>st</sup> June, 2023. Petitioner is before this Court by writ petition against impugned attachment order passed pursuant to dismissal of his appeal. In similar circumstances, we do see that the Income Tax Appellate Tribunal in Mumbai had dealt with the situation by requiring appellant therein to file the appeal with accompanying direction on condonation of delay. In this case petitioner has causes for consideration and satisfaction obtained, to apply on filing e-appeal, for condonation of delay in not having so filed earlier. Fact of appeal filed manually within time is a relevant fact to be considered.

7. On query from Court Mr. Mohanty submits, there was no interim attachment order, during which the appeal filed manually stood



pending. In the circumstances, there will be stay of impugned notice dated 25<sup>th</sup> July, 2024 till 24<sup>th</sup> February, 2025. Within that time petitioner will present e-appeal along with application for condonation of delay. There is apprehension expressed on whether the portal will allow such appeal being uploaded. Petitioner has leave to produce certified copy of this order and seek facilitation from appropriate department in revenue, for preferring the appeal. In event the appeal is uploaded on or prior to 24<sup>th</sup> February, 2025, impugned attachment order will stand set aside and quashed leaving the First Appellate Authority to proceed with adjudication on condonation of delay and, if satisfied, to admit the appeal and adjudicate thereon.

**8.** Mr. Sahoo submits, there is also involved assessment year 2012-13 in impugned attachment notice, appeal against which was decided on merits. Our direction regarding stay of operation of impugned attachment notice is excluding the attachment pursuant to First Appellate order in respect of assessment year 2012-13. We record that we have not adjudicated on the particular challenge, for petitioner to separately agitate, if permissible in law. Petitioner is left to find remedy regarding order made by the First Appellate Authority in respect of



assessment year 2012-13, including by preferring appeal to the Tribunal.

9. The writ petition is disposed of.

**(Arindam Sinha)**  
**Acting Chief Justice**

**(M.S. Sahoo)**  
**Judge**

*S. Behera*

**Signature Not Verified**  
Digitally Signed  
Signed by: SUMANTA BEHERA  
Designation: Senior Stenographer  
Reason: Authentication  
Location: High Court of Orissa, Cuttack  
Date: 04-Feb-2025 12:07:31

