

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

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 362/CTK/2015**  
Assessment Year : 2009-2010

AEs Orissa Distribution Pvt Ltd., HIG-4, BDA Colony, Jayadev Vihar, Bhubaneswar.	Vs.	ACIT, Circle 2(1), Bhubaneswar.
PAN/GIR No.AACCA 6658 H		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri B.K.Mohapatra, AR  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 08/08/ 2017**  
**Date of Pronouncement : /08/ 2017**

**ORDER**

**Per N.S.Saini, AM**

This is an appeal filed by the assessee against the order of the CIT(A)- 1, Bhubaneswar dated 28.5.2015 for the assessment year 2009-2010.

2. In Ground No.2 of the appeal, the grievance of the assessee is that the CIT(A) has dismissed the appeal ex parte for non-prosecution.

3. At the outset, Id A.R. of the assessee submitted that CIT(A) dismissed the assessee's appeal ex parte, for non-prosecution qua the assessee, without assigning any reason. According to him, the order passed by the CIT(A) being a non-speaking order, cannot stand in the eye of law. He prayed that the order of CIT(A) may be set aside with a

direction to him to decide the grounds of appeal taken before him, on merit by passing a reasoned order, after hearing the assessee.

4. Ld D.R. supported the order of the CIT(A).

5. After considering the rival submissions and perusing the order of the CIT(A), we find that the CIT(A) in his order has observed that there was no compliance by the assessee although various opportunities were given to the assessee to appear before him on 24.11.2014, 15.12.2014, 24.12.2014, 12.2.2015, 30.3.2015, 22.4.2015 and 25.5.2015 and hence, he has dismissed the appeal of the assessee following the decision of the Delhi in the case of CIT vs. Multiplan India (P)Ltd., 38 ITD 320 and other judicial pronouncements. We find force in the contention of the learned counsel for the assessee that the CIT(A) has simply dismissed the appeal for non-prosecution qua the assessee, without assigning any reason. The order of the learned CIT(A) being a non-speaking order, the same is set aside and the matter is restored back to his file with the direction to pass a reasoned order in accordance with law, after affording reasonable opportunity of being heard to the assessee.

6. Since we have remitted the matter to the file of the CIT (A) for deciding afresh, other grounds raised in the appeal on merits of the case are infructuous.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09 /08/2017.

Sd/-

sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

Cuttack; Dated 09 /08/2017  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : AEs Orissa Distribution Pvt Ltd., HIG-4, BDA Colony, Jayadev Vihar, Bhubaneswar
2. The Respondent. ACIT, Circle 2(1), Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**