

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

आयकर अपील सं./ITA No.247/CTK/2016

(निर्धारण वर्ष / Assessment Year :2009-2010)

M/s OM Associates, Lane-4, Pokhariput, Bhubaneswar-751020	Vs.	ITO, Ward-2(2), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAF0 8711 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri Niranjana Panda, AR

राजस्व की ओर से /Revenue by : Shri D.K.Pradhan, DR

सुनवाई की तारीख / Date of Hearing : **28/12/2017**

घोषणा की तारीख/Date of Pronouncement **28/12/2017**

आदेश / O R D E R

Per Shri N.S.Saini, AM:

The assessee has filed an appeal against the order of CIT(A)-1, Bhubaneswar, dated 23.3.2016 for the assessment year 2009-2010.

2. In this appeal, the assessee has raised the following grounds :-

1. For that the order of the learned C.I.T Appeal - 1, Bhubaneswar dated 23.03.2016 passed in Appeal No. ITA-0396/15-16 confirming the assessment order dated 21.07.2014 passed by the Income Tax Officer, Ward-2(2), Bhubaneswar hereinafter referred to as learned 'A.0' is not just and legal on the facts and in the circumstances of the case.
2. For that the learned CIT(A) is not justified in upholding the addition to the extent of Rs.42,61,786/- to the returned income of the appellant disallowing the expenditure U/s.40(a)(ia) of the I.T.Act 1961 for Rs. 37,67,036/- and Rs. 7,94,750/- for Van Hire Charges and Office Rent respectively on the facts and in the circumstances of the case.
3. For that the learned CIT(A) has failed to appreciate the contentions raised & documents submitted by the appellant in the course of assessment / appeal proceedings & without giving reasonable opportunity and without assigning any valid & cogent reasons confirmed THE Demand vide order dated 21.07.2014 passed by the Income Tax Officer, Ward-2(2), Bhubaneswar.

4. *For that other grounds if any would be urged at the time of hearing of the appeal on the facts and in the circumstances of the case.*

3. We have perused the orders of CIT(A). We find that the CIT(A) has observed that he had fixed the appeal for hearing on 17.02.2016 & 4.3.2016 and finally on 13.03.2016 and none of the date the assessee put in an appearance before him or submitted any written arguments in support of his grounds of appeal and, therefore, he confirmed the order of the AO.

4. In the above facts and circumstances of the case, we are of the considered view that in order to render substantial justice to the assessee, one more opportunity should be granted to the assessee to present its appeal before the CIT(A). The assessee is directed to appear before the CIT(A) within a period of one month from the date of this order to fix the date of hearing. The assessee is further directed to cooperate with the CIT(A) in disposing off the appeal expeditiously and to file all evidences and documents on which it wishes to rely upon as and when called upon to do so by the CIT(A). Further, the CIT(A) shall be at liberty to pass any order as he may deem fit in the matter, if the assessee does not cooperate with him in disposing of the appeal expeditiously by filing relevant details and documents called for by him. With this direction, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on this 28/12/2017.

Sd/-
(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 28/12/2017

प्र.कु.मि/PKM, Senior Private Secretary

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
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,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack