

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक**

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

**BEFORE SHRI N.S.SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.440/CTK/2017

(निर्धारण वर्ष / Assessment Year :2013-2014)

Debabrata Patnaik, Plot No.3660/4088, Lewis Road, Bhubaneswar Odisha-751002	Vs.	ITO, Ward-2(1), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AFLPP 4434 P</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri Bhagaban 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**

This is an appeal filed by the assessee against the order of the CIT(A)-1, Bhubaneswar, dated 31.8.2017.

2. In Ground No.4 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 27.4.2017, 7.8.2017 & 23.8.2017 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 this 28/12/2017.

**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.
2. प्रत्यर्थी / The Respondent-  
ITO, Ward-2(1), Bhubaneswar
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