

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.306/CTK/2015
(निर्धारण वर्ष / Assessment Year :2011-2012)

Satendra Prasad, Ward No.5, Kacheri Road, Baripada-757001	Vs.	DCIT, Balasore Circle, Balasore
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AELPP 6065 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri D.K.Sheth, AR
राजस्व की ओर से /Revenue by : Shri D.K.Pradhan,CITDR
सुनवाई की तारीख / Date of Hearing : **18/09/2017**
घोषणा की तारीख/Date of Pronouncement **19/09/2017**

आदेश / O R D E R

Per Shri Pavan Kumar Gadale, JM:

The assessee has filed an appeal against the order of CIT(A), Cuttack, in Appeal No.0674/2013-14, dated 27.02.2015, passed u/s.143(3)/250 of the Income Tax Act, 1961 for the assessment year 2011-2012,

2. The only substantive ground raised by the assessee that the CIT(A) erred in dismissing the appeal of the assessee and the adhoc addition made by the AO is unjustified.

3. Brief facts of the case are that the assessee is a civil contractor based in Mayurbhanj District, Odisha and filed the return of income for the assessment year 2010-2011 on 24.05.2012 with total income of Rs.44,68,660/- and the return of income was processed u/s.143(1) of the Act and subsequently the case was selected for scrutiny under and notice u/s.143(2) & 142(1) was issued. In compliance to the same, Id. AR of the assessee appeared from time to time.

produced books of accounts and the case was discussed. The AO on perusal of the profit element in respect of gross receipt of Rs.9,40,54,744/-, found that the assessee has claimed various expenditure and also issued notice u/s.142(1) of the Act to submit the details. Further the Id. AO also dealt on the purchases amounting to Rs.2,71,43,781/- and required the assessee to identify the creditors and substantiate the genuineness of the creditors dealt at para 5 of the order. Since the assessee has not filed any particulars or details, the AO has no alternative but to make addition of Rs.27,14,378/- and passed the order u/s.143(3) of the Act, dated 26.03.2014.

4. Aggrieved by the order of AO, the assessee filed an appeal with the CIT(A). In the appellate proceedings, Id. CIT(A) observed that the assessee is not interested in pursuing the appeal and dismissed the appeal of the assessee.

5. Aggrieved by the order of CIT(A), the assessee has filed an appeal before the Tribunal.

6. Before us, Id. AR submitted that the CIT(A) has erred in dismissing the appeal and also the assessee's case has, prima facie merits on the disputed issue and can support with evidence. Since the Id. CIT(A) dismissed the appeal of the assessee on the ground of refusal. The Id. AR submitted that the assessee shall cooperate in submitting the details before the income tax authorities and, prayed for an opportunity to be

granted. On the other hand, Id. DR relied on the orders of authorities below.

7. We have heard the rival contentions and perused the material on record. Prima facie, the contention of Id. AR that an opportunity of hearing be granted as the Id. CIT(A) has not dealt on the merits of the case. Further, Id. AR submitted that the assessment by the AO is on higher side and requested for reasonable percentage of profit can be fixed which the assessee shall accept, whereas Id. DR submitted that the CIT(A) has dismissed the appeal because the assessee could not substantiate its claim before the lower authorities. We considering the apparent facts and material on record and in the interest of substantial justice, provide one more opportunity to the assessee to present its case before the appellate authority. Accordingly, we direct the assessee to appear before the Id. CIT(A) within a period of one month from the date of receipt of the copy of the Tribunal order and shall cooperate in submitting the information and disposal of the appeal and the Id. CIT(A) shall pass a speaking order considering the submissions of the assessee on merits. We order accordingly.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 19/09/2017.

Sd/-

(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 19/09/2017

प्र. कु. मि / PKM, Senior Private Secretary

Sd/-

(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant-
Satendra Prasad,
Ward No.5, Kacheri Road,
Baripada-757001
2. प्रत्यर्थी / The Respondent-
DCIT, Balasore Circle, Balasore
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