

**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.59/CTK/2018

(निर्धारण वर्ष / Assessment Year : 2013-2014)

M/s Rameswar Agro Industries Pvt. Ltd., Plot No.61/143, Bagwanpur Industrial Estate, Patrapada, Bhubaneswar, Khurda-751019	Vs.	ITO, Ward-1(3), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AADCR 0805 J</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri P.K.Mishra, AR

राजस्व की ओर से /Revenue by : Shri Subhendu Dutta, DR

सुनवाई की तारीख / Date of Hearing : 20/08/2018

घोषणा की तारीख/Date of Pronouncement 21/08/2018

**आदेश / ORDER**

**Per Shri Pavan Kumar Gadale, JM:**

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar, dated 22.06.2017 passed in I.T.Appeal No.0010/16-17 for the assessment year 2013-2014.

2. Ld. AR for the assessee has filed an adjournment petition seeking adjournment on the ground that required papers and information in the matter could not be collected from the assessee, which in our opinion, is not a plausible one, accordingly we reject the adjournment petition and appeal is heard finally.

3. The assessee has raised the following grounds of appeal :-

1. *For that, the impugned order of Assessment passed by the Forums below are not just and proper under the facts and in the circumstances of the case, as such the addition made therein is liable to be deleted in the interest of justice.*

2. *For that, the learned C.I.T(A) should have allowed sufficient opportunity before confirming the addition made by the learned A.O. and dismissing the appeal of the Appellant, since the impugned order was passed on gross violation of principles of natural justice, the same being unsustainable in the eye of law, needs to be quashed in the interest of justice.*
3. *For that, the learned C.I.T(A) has committed gross error of law, while confirming the disallowance of unsecured loan to the tune of Rs.85,50,000.00, ignoring the explanation and evidences adduced before the learned A.O. at the time of Assessment, as such, the impugned addition of Rs.85,50,000.00, being not sustainable in the eye of law, needs to be deleted in the interest of justice.*
4. *For that, since the Appellant has sufficient evidences in hand to justify the identity, credit worthiness and genuineness of transactions, section 68 has no application to the fact of the case, as such, the addition of unsecured loan of Rs.85,50,000.00 by the Forums below, being illegal, needs to be deleted in the interest of justice.*
5. *For that, your Appellant craves leave of This Hon'ble Tribunal to urge any other grounds, if any, at the time of hearing in the interest of justice and equity.*

4. Brief facts of the case are that the assessee is engaged in the business of milling and trading rice and also derives income from other sources and filed the return of income electronically on 30.09.2013 for the A.Y.2013-2014 declaring total income of Rs.58,32,450/-. The return of income was processed u/s.143(1) of the Act. Subsequently the case was selected under scrutiny under CASS and notices u/s.143(2) & 142(1) of the Act were issued. In compliance of the same, Id. AR appeared before the AO and case was discussed. Thereafter the AO completed the assessment assessing total income at Rs.1,43,82,450/- and passed order u/s.143(3), dated 14.03.2016 making addition u/s.68 of the Act.

5. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A). In the appellate proceedings none appeared on behalf

of the assessee and, therefore, the CIT(A) after considering the findings of the AO, dismissed the appeal of the assessee.

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

7. Before us, at the time of hearing Id. AR of the assessee submitted that the order passed by the CIT(A) is an ex-parte order and, therefore prayed for opportunity to represent the case before the CIT(A).

8. Contra, Id.DR vehemently objected to the submissions of the assessee and prayed that the assessee has not complied the hearing notice and again praying for opportunity without explaining the reasonable cause.

9. We have heard rival submissions and perused the materials available on record. We found that the Id. CIT(A) has referred to the hearing dates posted on 16.05.2017, 31.05.2017 & 19.06.2017. Prima facie it shows that the assessee has not made a vigilant attempt to appear before the appellate authorities. Therefore, we considering the apparent facts and also the conduct of the assessee in non-compliance with the date of hearing and keeping in view the above back ground of the case and also the prayer of the assessee, in the interest of rendering substantial justice, one more opportunity should be granted to the assessee, we are of the considered view that no loss will be caused to the revenue if one more opportunity is allowed to the assessee to present its appeal before the CIT(A). But, keeping in view the conduct of the assessee before the CIT(A), we direct the assessee to deposit **Rs.10000/-**

**(Rupees Ten Thousand Only)** by way of cost to the department within a period of one month from the date of this order and the assessee shall produce a copy of receipt of payment of cost as evidence before the CIT(A).

10. With the above direction, appeal of the assessee is restored back to the file of CIT(A) to dispose off the appeal of the assessee after allowing reasonable and proper opportunity of hearing to the assessee. It is made clear that the CIT(A) shall be at liberty to pass any order as he may deem fit in the matter, if the assessee fails to cooperate with him on the dates of hearing fixed by him. We order accordingly.

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

Order pronounced in the open court on 21/08/2018.

**Sd/-**  
**(N.S.SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

**Sd/-**  
**(PAVAN KUMAR GADALE)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 21/08/2018

प्र.कु.मि/PKM, Senior Private Secretary

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

1. अपीलार्थी / The Appellant-  
M/s Rameswar Agro Industries Pvt. Ltd.,  
Plot No.61/143, Bagwanpur Industrial Estate,  
Patrapada, Bhubaneswar, Khurda-751019
2. प्रत्यर्थी / The Respondent-  
ITO, Ward-1(3), 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.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private Secretary)**

आयकर अपीलीय अधिकरण, कटक /  
ITAT, Cuttack