

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

BEFORE SHRI C.M. GARG, JM & SHRI L.P. SAHU, AM

आयकर अपील सं./ITA Nos.215 & 216/CTK/2018

(निर्धारण वर्ष / Assessment Years :2010-2011 & 2011-2012)

ITO(Exemptions), Cuttack	Vs.	Orissa State Financial Corporation Employee Provident Fund, At: OMP Square, College Square, Cuttack-753003
PAN No. : AAATO 0382 K		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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राजस्व की ओर से /Revenue by	:	Shri S.K.Bandyopadhyay, DR
निर्धारिती की ओर से /Assessee by	:	None

सुनवाई की तारीख / Date of Hearing	:	17/06/2020
घोषणा की तारीख/Date of Pronouncement	:	17/06/2020

आदेश / ORDER

Per L.P.Sahu, AM:

These two appeals have been filed by the Revenue against the order dated 26.02.2018 & 22.02.2018 passed by the CIT(A), Cuttack for the assessment year 2010-2011 & 2011-2012.

2. The common issue taken by the Revenue in both the appeals is with regard to allowing the expenditure claimed by the assessee accepting the additional evidence relating to the details of expenditure, thereby violating the Rule 46A of I.T.Rules, 1962

3. None appeared on behalf of the assessee even both the cases were called for hearing on second round. Therefore, the Bench

proceeded to dispose off both the appeals of the assessee after considering the submissions of ld. DR and the material evidence available on record.

4. Ld. DR relied on the order of AO and submitted that the CIT(A) has passed order after considering the additional evidence filed by the assessee in violation of the Rule 46A of I.T.Rules, 1962 and the same is not permitted at this stage. Hence, the appeal of the Revenue deserves to be allowed.

5. After considering the submissions of ld. DR and perusing the relevant material placed in the record of the Tribunal, we find that during the course of appellate proceedings, the assessee produced a list of 298 employees whose accounts have been credited with interest in A.Y.2010-2011, on which basis, the CIT(A) allowed the appeal of the assessee considering the submissions of the assessee and deleted the addition made by the AO and reinstated the excess of expenditure over income as shown in the audited accounts of the assessee. However, the ground raised by the Revenue before us that the CIT(A) has violated the Rules 46A of I.T.Rules, 1962 in accepting the details of expenditure in the form of additional evidence is not accepted because the principal expenses of the assessee are interest payment to its members and miscellaneous administrative expenses, which are parts of the record. Further, we found that both appeals of the Revenue are less than the

tax limit prescribed by the CBDT vide its Circular No.17/2019, dated 8th August, 2019. Therefore, on careful perusal of the findings recorded by the CIT(A) on merit as well as the factual aspect of the matter, the contention of the Revenue pointing towards the exceptional clause provided by the aforesaid CBDT circular, does not survive.

6. In view of the above facts and circumstances of the case, we dismiss both the appeals of the Revenue holding the same as below the tax limit prescribed by the CBDT Circular No.17/2019, dated 8th August, 2019.

7. In the result, the both appeals of the Revenue are dismissed.

Order pronounced in the open court on 17/06/2020.

Sd/-
(C.M.GARG)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(L.P.SAHU)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 17/06/2020

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
ITO(Exemptions), Cuttack
2. प्रत्यर्थी / The Respondent-
Orissa State Financial Corporation Employee
Provident Fund,
At: OMP Square, College Square,
Cuttack-753003
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