



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No.341/CTK/2019

Assessment Year : 2014-15

Aliza International Pvt Ltd.,HIG-22, BDA Housing Colony, Jayadev Vihar, Bhubaneswar.	Vs.	DCIT, Circle-2(1), Bhubaneswar
PAN/GIR No.AAFCA 9579 A		
(Appellant)	..	(Respondent)

Assessee by : Shri Sunil Kumar Mishra, AR
Revenue by : Shri M.K.Gautam, CIT DR

Date of Hearing : 13 /10/2022
Date of Pronouncement : 13/10/2022

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A)-1, Bhubaneswar dated 27.8.2019 in Appeal No. 0238/16-17 for the assessment year 2014-15.

2. Shri Sunil Kumar Mishra, Id AR appeared for the assessee and Shri M.K.Gautam, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee had entered into contracts with four buyers for sale of minerals. It was the submission that as the purchase rate was fixed, the assessee could not change that rate but at the time of purchase from outsiders for the purpose of meeting the

contract requirements, the cost went higher and consequently, the assessee had incurred loss to the tune of Rs.2,74,26,246/-. It was the submission that the Assessing Officer has disallowed the same on the ground that the assessee has not produced any details in respect of the said loss. It was the submission that the Id CIT(A) has confirmed the order of the Assessing officer on the ground that he was unable to believe that prudent business man in order to maintain its goodwill in the market and to avoid unnecessary litigation would purchase the material at a higher rate than the rate at which the orders were accepted thereby incurring huge loss to the tune of Rs.2,74,26,246/-. It was the submission that the contract had been entered into for the sale of minerals to the parties and it was unfortunate that the cost of purchase had escalated. It was the submission that this was not in the hands of the assessee. Failure on the part of the assessee to meet the terms of the contract would have damaged the reputation of the assessee. He, however, stated that the issue may be restored to the file of the Assessing Officer so that the assessee could produce all the evidences as may be required by the AO to substantiate its claim.

4. In reply, Id CIT DR submitted that no evidence has been produced by the assessee before the Assessing Officer and in the absence of any evidence being produced before the AO, the Tribunal could not consider any of the evidences produced. He vehemently supported the order of the AO and Id CIT(A).

5. We have considered the rival submissions. A perusal of the assessment order clearly shows that the Assessing Officer has categorically given a finding that the proof of price fluctuation, which has caused the loss to the assessee, has not been produced before him. In such circumstances, in the interest of justice, we are of the view that the issue is required to be restored to the file of the AO for re-adjudication after granting adequate opportunity to the assessee to produce all such evidences, as required, to substantiate its case. Here, we may mention that we are not in agreement with the order of the Id CIT(A) regarding his findings that no prudent business man would purchase material at a higher market rate than the rate at which the orders were accepted thereby incurring huge loss. This finding of the Id CIT(A). If this is true no business man will ever suffer a loss. However, in business, this is not so. In these circumstances, the issue is restored to the file of the AO to re-adjudicate afresh after granting adequate opportunity being heard to the assessee.

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

Order dictated and pronounced in the open court on 13/10/2022.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 13/10/2022
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Aliza International Pvt Ltd.,HIG-22, BDA Housing Colony, Jayadev Vihar, Bhubaneswar
2. The Respondent: DCIT, Circle-2(1), Bhubaneswar
3. The CIT(A)-1,Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack