



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

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

ITA No.133/CTK/2021

Assessment Year : 2017-18

Biranchi Narayan Sahoo, Majhi Sahi, Khan Nagar, Cuttack	Vs.	DCIT, Circle-1(1), Aayakar Bhavan, Cuttack
PAN/GIR No.ACRPS 1312 C		
(Appellant)	..	(Respondent)

Assessee by : Shri B.R.Pattnaik, AR
Revenue by : Shri S.C.Mohanty, Sr. DR

Date of Hearing : 10 /01/2023

Date of Pronouncement : 10/01/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi, dated 11.10.2021 in Appeal No.ITBA/NFAC/S/250/2021-22/1036290868(1) for the assessment year 2017-18.

2. Shri B.R.Pattnaik, AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a distributor of FMCG (Nestle India Ltd and ITC Ltd) and a super stockiest of M/s. Philips Lighting India Ltd. It was the further submission that during the relevant assessment year, the assessee was also started dealing in cigarettes. It was the submission that there was a survey conducted in the premises of the assessee on 21.3.2017. The assessee had filed his return of income for the relevant assessment year disclosing total income of Rs.46,92,036/-. The assessment came to be completed u/s.143(3) on 5.12.2019, wherein, the Assessing Officer had disallowed advance from customers shown in the balance sheet to an extent of Rs.35,11,260/-. The Assessing Officer had asked the assessee to provide the names and addresses from whom the advances were received. The assessee had provided a list, which contained the names and addresses available with the assessee, the amount of advance and the Adhar Card Numbers. It was the submission that the Assessing Officer had, without doing any verification, rejected the list given by the assessee by holding that the addresses given by the assessee were incomplete. It was the submission that the Id CIT(A) had also extracted some of the names and address from whom the advances were received and held that the addresses given were incomplete. It was the submission that there were 335 customers, admittedly, in case of few of them, it could be said that the addresses were incomplete but in most of the cases, the detailed addresses were available. It was the submission that the addition

as made by the AO and as confirmed by the Ld CIT(A) is liable to be deleted.

4. In reply, Id Sr DR submitted that in the course of survey, cash book had been found, the amount found in the cash book as on the date of survey was different from the figures shown in the cash book when they were produced for assessment. It was the submission that the assessee had purchased immovable property for which the assessee had paid nearly Rs.23,90,000/- in cash and the advance from the customers are only guise for the purpose of raising the cash which has been introduced in the cash book for the purchase of the immovable property. It was the submission that proper address had not been provided by the assessee in respect of the persons from whom, the advance had been taken. It was the submission that the order of the Id CIT(A) and also the order of the AO be sustained.

5. We have considered the rival submissions. A perusal of the evidences produced by the assessee, is in the form of the names of the parties, addresses, the amount of advance and the Adhar Card, which clearly shows that in some of the cases, the addresses seem to be incomplete. It is not that the address of the customers had not been provided before the Assessing Officer. Before we take a stand that addresses are incomplete, there is a requirement that the address be verified. This admittedly has not been done by the Assessing Officer. The

presumption that the entire advance from the customers as shown in the balance sheet is bogus could be farfetched. As it is noticed that the assessee has provided the address and this has not been verified by the AO, in the interest of justice, the issue in this appeal is restored to the file of the AO with a direction to verify the address and if necessary issue notice u/s.133(6) of the Act. Should the notice be returned on account of incomplete address, put it before the assessee to provide further details. Without doing proper verification, by simply statement that the addresses are incomplete, addition cannot be made. In these circumstances, the issues in this appeal are restored to the file of the Assessing Officer for re-adjudication after granting the assessee adequate opportunity to substantiate its case and after doing proper verification, as are required in respect of the claim of 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 10/01/2023.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 10/01/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Biranchi Narayan Sahoo,
Majhi Sahi, Khan Nagar, Cuttack
2. The Respondent: DCIT, Circle-1(1), Aayakar
Bhavan, Cuttack
3. The CIT(A)-, NFAC, Delhi
4. Pr.CIT-, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack