

## आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री अरुण खोड़पिया लेखा सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

AND

SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.169/CTK/2022

(निर्धारण वर्ष / Assessment Year :2018-2019)

St. Thomas Educational Trust, At/PO: Kali Mandir Road, Jharsuguda-768202	Vs	Income Tax Officer, Exemption Ward, Sambalpur
PAN No. :AAGTS 3511 G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Mahendra Kumar Kedia, CA
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	18/01/2023
घोषणा की तारीख/Date of Pronouncement	:	18/01/2023

### आदेश / O R D E R

#### Per Bench :

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 14.09.2022, passed in DIN & Order No.ITBA/NFAC/S/250/2022-23/1045482061(1) for the assessment year 2018-2019.

2. It was submitted by the Id. AR that the assessee has been granted registration u/s.10(23C)(vi) of the Act w.e.f. assessment year 2016-2017 vide an order dated 19.03.2018, passed by this Tribunal in ITA No.204/CTK/2017. It was the submission that the assessment in the case of the assessee came to be completed for the impugned assessment year on 23.02.2021 without granting the benefit of the exemption u/s.10(23C)(vi) of the Act to the assessee on the ground that the Id. CIT(E) has not given effect to the order of the Tribunal granting the

assessee the benefit of the exemption u/s.10(23C)(vi) of the Act. It was the submission that the Id. CIT(A), NFAC has also held that it is the duty of the assessee to approach the jurisdictional CIT(E) to give effect to the order of the Tribunal and has dismissed the assessee's appeal. It was the submission that the assessee has the benefit of registration u/s.10(23C)(vi) of the Act as granted by the Tribunal but the effect has not been given by the Id. CIT(E), therefore, the Tribunal may be pleased to direct the AO to redo the assessment after considering the exemption u/s.10(23C)(vi) of the act.

3. In reply, Id. Sr. DR vehemently supported the order of the Id. CIT(A) and the AO.

4. We have considered the rival submissions. It is surprising that the Id. CIT(A), NFAC has taken a stand that it is the duty of the assessee to approach the jurisdictional CIT(E) to give effect the order of the Tribunal. Once the superior judicial authority has passed an order modifying the order of a subordinate authority, then it is the duty of the subordinate authority to give effect to the order of the superior authority. It is not the duty of an assessee to run from pillar to post to get the authorities to give effect to the order of the superior authority. If the subordinate authority has an objection to the findings of the superior authority, it is very much open to the subordinate authority to file an appeal against such order. The subordinate authority does not have the authority to disregard or override a clear cut direction given by the superior authority. The facts in the present case clearly show that the coordinate bench of this Tribunal has

granted the assessee the benefit of exemption u/s.10(23C)(vi) of the Act vide its order in ITA No.204/CTK/2017, dated 19.03.2018, wherein in para 14 it has been held as follows :-

*“14. We, therefore, following the above decision of the Tribunal, direct the CIT(E) to grant approval to the assessee society u/s.10(23C)(vi) of the Act for the assessment year 2016-2017. Thus, this appeal of the assessee is allowed as above.”*

5. A perusal of the above order of the coordinate bench of the Tribunal shows that the words used therein are *“direct the CIT(E) to grant approval to the assessee society u/s. 10(23C)(vi) of the Act for the assessment year 2016-2017”*. This being so, issues in this appeal are hereby restored to the file of AO with a direction that the AO shall redo the assessment after obtaining the order of the Id.CIT(E) giving effect to the order of the Tribunal dated 19.03.2018, passed in ITA No.204/CTK/2017.

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

Order dictated and pronounced in the open court on 18/01/2023.

**Sd/-**  
**(अरुण खोड़पिया)**  
**(ARUN KHODPIA)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-**  
**(जार्ज माथन)**  
**(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

**कटक** Cuttack; दिनांक Dated 18/01/2023

*Prakash Kumar Mishra, Sr.P.S.*

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**आदेशानुसार/ BY ORDER,**  
**(Assistant Registrar)**  
**आयकर अपीलीय अधिकरण,**  
**कटक/ITAT, Cuttack**