



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

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

ITA No.118/CTK/2022

Assessment Year : 2015-16

Gajalaxmi Business Enterprises Pvt Ltd., Gandhi Road, Biramitrapur, Odisha.	Vs.	ACIT, Aayakar Bhavan, Uditnagar, Rourkela.
PAN/GIR No.AADCG 0643 F		
(Appellant)	..	(Respondent)

Assessee by : Shri Pawan Agarwall,AR
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 14/02/2023
Date of Pronouncement : 14/02/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 8.6.2022 in Appeal No. ITBA/NFAC/S/250/2022-23/1043367782(1) for the assessment year 2015-16.

2. Shri Pawan Agarwall, Id 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 assessment came to be completed u/s.143(3) on 29.12.2017. It was the submission that the Assessing Officer

mentions that the details were given in last minute before the AO. It was the submission that it was the AO who himself had called for the details in the last minute. It was the submission that the assessee was also asked to produce the sundry creditors in the last minute and the assessee produced whomever he could. It was the submission that without considering any of the explanation of the assessee, the assessment has been completed making addition. It was the further submission that the Assessing Officer has also done assessment pursuant to order u/s.144A passed by the Joint Commissioner of Income Tax (JCIT) without giving the assessee an opportunity of being heard. It was the submission that the order passed by the JCIT u/s.144A itself is unsustainable. It was the further submission that before the Id CIT(A) though evidences and submissions had been produced but without considering any of the explanation, the Id CIT(A) has confirmed the addition as made by the Assessing Officer. It was the submission that the order of the Id CIT(A) be set aside and the issues be restored to the file of the AO so as to enable the assessee to produce all the evidences as called for to his satisfaction.

4. In reply, Id Sr DR submitted that he has no objection if the issues are restored. It was the submission that the issues should be restored to the file of the Id CIT(A), who could direct the AO for a remand report. He vehemently supported the order of the Id CIT(A).

5. We have considered the rival submissions. A perusal of the assessment order clearly shows that the order u/s.144A has been passed by the JCIT. Admittedly, the assessee submits that he has not been given an opportunity of being heard nor he has been served the copy of order u/s.144A. Clearly, the assessment order is passed on the direction of the JCIT passed u/s. 144A of the Act. The same having not been served on the assessee, there is clear violation of principles of natural justice. In these circumstances, as also considering the fact that the AO has called for details in the last minute and then has put the blame on the assessee for non-production of all the details, we are of the view that the issues in this appeal must be restored to the file of the AO for re-adjudication after granting the assessee opportunity to substantiate its case. The Assessing Officer shall serve the assessee copy of the order u/s.144A, if he proposes to rely on the order for making the assessment.

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

Order dictated and pronounced in the open court on 14/02/2023.

Sd/-
(Arun Khodpia)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 14/02/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Gajalaxmi Business Enterprises Pvt Ld., Gandhi Road, Biramitrapur, Odisha
2. The Respondent: ACIT, Aayakar Bhavan, Uditnagar, Rourkela
3. The CIT(A)-, NFAC, Delhi
4. Pr.CIT-, Sambalpur
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack