



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

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No.23/CTK/2023
Assessment Year : 2010-2011

Sundeeep Haridas, Prop. Sundardas D unsraj, College Square, Cuttack	Vs.	DCIT, Circle-1(1), Cuttack
PAN/GIR No.AADP 5404 N		
(Appellant)	..	(Respondent)

Assessee by : Shri Mohit Sheth, AR
Revenue by : Shri Saroj Kumar Mahapatra, CIT DR

Date of Hearing : 18/07/2023
Date of Pronouncement : 18/07/2023

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 1.2.2023 in Appeal No.ITBA/NFAC/S/250/2022-23/1049311803(1) for the assessment year 2010-2011.

2. Shri Mohit Sheth, Id AR appeared for the assessee and Shri Saroj Kumar Mahapatra, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that two issues are involved in this appeal, one was against the addition made by the Assessing Officer on account of non-deduction of TDS and non-production of Form 15H & 15G and consequently, application of provisions of section 40(a)(ia) of the Act. It was the submission that the second issue was in respect of donation of Rs.70,000/- which has been disallowed by the Assessing Officer. It was the submission by Id CIT DR that the issue of donation has not been pressed by the assessee before the Id CIT(A). Consequently, as the issue has not been pressed before the Id CIT(A), the issue of donation stands dismissed.

4. Coming to the issue of application of provisions of section 40(a)(ia) of the Act, it was the submission of Id AR that the assessee has filed Form 15-G & 15-H before the Pr. CIT/CIT. Ld AR has placed before us the certificates filed before the Id CIT, Cuttack in Form 15-G & 15-H in respect of five persons as under:

Khatau Sunderdas	-	15H
Haridas Sunderdas (Ind)	-	15H
Haridas Sunderdas (HUF)	-	15G
Bhanu Khatau	-	15H
Hansa Haridas	-	15H

5. It was the submission that as the necessary Forms have been filed before the Cuttack, Cuttack now Pr. CIT, Cuttack, no disallowance is called for.

6. It was the submission that in respect of balance persons, 15-G had been submitted but the acknowledgement does not contain seal of the office of the CIT, Cuttack. It was the submission that the total disallowance was to an extent of Rs.16,02,439/- made by invoking the provisions of section 40(a)(ia) of the Act. It was the submission that in respect of the amount of Rs.14,80,162/- Form 15-G and Form 15-H have been filed before the CIT, Cuttack and in respect of the amount of Rs.1,22,277/-, the proof of submission of Form 15-G did not contain seal of the office of the CIT, Cuttack. It was the submission that however, the proof was produced before the Assessing Officer. It was the submission that in respect of 8 persons, whose Form 15-G had been submitted but did not contain seal of the office of the CIT, Cuttack, substantial portion did not exceed the prescribed limit for the purpose of deduction of TDS. It was the submission that the addition as made by the AO and confirmed by the Id CIT(A) is liable to be deleted.

7. In reply, Id CIT DR submitted that admittedly, the assessee has produced the proof of production of form 15-H & 15-G in respect of Rs.14,80,182/-. In respect of proof of submission of Form 15-G in respect of other 8 persons to an extent of Rs.1,22,277/-, the letter contain many discrepancies. It was the submissions that the addition as made by the AO and confirmed by the Id CIT(A) is liable to be confirmed.

8. We have considered the rival submissions. Admittedly, the facts of the present case clearly shows that in respect of Rs.14,80,162/- being the interest paid to five persons, the assessee has submitted Form 15-H & 15-G in the office of the CIT, Cuttack. This is not in dispute. Once the requisite Forms have been filed, then the assessee cannot be treated as a defaulter in respect of deduction of TDS u/s.194A of the Act. Consequently, the addition made by the AO and confirmed by the Id CIT (A) to the extent of Rs.14,80,162/- stands deleted.

9. Coming to the issue of an amount of Rs.1,22,277/- in respect of which Form 15-G is said to have been filed before the Id CIT, Cuttack, the same has been rejected on the ground that the discrepancies have been pointed out by the AO in the forms. The forms are not filled by the assessee but by the recipients of the interest. The discrepancies in these forms cannot be held against the assessee. This being so, as the AO and Id CIT(A) has also acknowledged the filing of the forms before the CIT, Cuttack, the addition made by the AO and confirmed by the Id CIT(A) in respect of addition of Rs.1,22,277/- is also deleted.

10. In the result, appeal of the assessee stands partly allowed.

Order dictated and pronounced in the open court on 18/07/2023.

Sd/-
(Girish Agrawal)
ACCOUNTANT MEMBER
Cuttack; Dated 18/07/2023

sd/-
(George Mathan)
JUDICIAL MEMBER

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Sundeep Haridas, Prop.
Sundardas D unsraj, College Square,
Cuttack
2. The Respondent: DCIT, Circle-1(1),
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