

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ,कटक

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.279/CTK/2023

(निर्धारण वर्ष / Assessment Year :2009-2010)

Biswanath Jha, AT/PO: Gandhinagarpara, Dist: Balangir-767001	Vs	ACIT, Circle-2(1), Sambalpur
PAN No. :ABTPJ 6411 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारित की ओर से /Assessee by	:	Shri P.K.Mishra & Shri Himanshu Jena, Advocates
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	26/10/2023
घोषणा की तारीख/Date of Pronouncement	:	26/10/2023

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 27.06.2023, passed in DIN & Order No.ITBA/NFAC/S/250/2023-24/1053989810(1) for the assessment year 2009-2010.

2. It was submitted by Id AR that in the course of assessment, the AO had asked for some details in respect of expenses and the sundry creditors. The assessee was unable to produce the same due to medical reasons in respect of the assessee's son, who was suffering from some neurological problems. It was the submission that even before the Id. CIT(A) the assessee has not been able to represent his case properly. It was the prayer that the assessee may be granted another opportunity to produce all the evidences before the AO.

3. In reply, Id. Sr. DR submitted that the assessment year is A.Y.2009-2010 and the assessed income is Rs.32,53,227/-. It was the submission

that in the assessment year 2009-2010, this appeal is not an SMC case and, therefore, it is to be considered as Division Bench Case.

4. I have considered the rival submissions. As on the date of hearing of the appeal, much more, on the date of filing of this appeal itself, the total income of the assessee is below Rs.50 lakhs and consequently, the same falls within the category of SMC. In regard to the merits of the appeal, it is noticed from the assessment order that substantial opportunities had been given to the assessee. The assessee could not produce the evidence as called for by the AO. The assessee, admittedly has not appeared before the Id. CIT(A). However, as the assessee has categorically mentioned that the non-appearance was on account of health reasons of the assessee's son, therefore, the issues in this appeal are restored to the file of AO for adjudication afresh after granting the assessee adequate opportunities of being heard and I do so.

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

Order dictated and pronounced in the open court on 26/10/2023.

Sd/-
(जार्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 26/10/2023
Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Biswanath Jha,
AT/PO: Gandhinagarpara,
Dist: Balangir-767001
2. प्रत्यर्थी / The Respondent-
ACIT, Circle-2(1), Sambalpur
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack