

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

(THROUGH VIRTUAL HEARING)

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA No.245/CTK/2023

(निर्धारण वर्ष / Assessment Year : 2013-2014)

Aparna Pradhan, Haladidiha, At: Haladidiha, PO: Ostapur, Dist: Kendrapara-75422	Vs	ITO, Kendrapara Ward, Kendrapara
PAN No. :BLWPP 3485 L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Dr. Abani Kanta Nayak, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	10/10/2023
घोषणा की तारीख/Date of Pronouncement	:	10/10/2023

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 15.05.2023 for the assessment year 2013-2014.

2. It was submitted by the Id. AR that the assessee is engaged in the business of brokerage, consultancy, commodity exchange transaction and derivatives during the financial year 2012-2013 and filed her return of income on 14.01.2014 declaring total income at Rs.8,16,150/-. Initially, the assessment in the case of the assessee was framed u/s.143(3) of the Act by the AO on 09.03.2016 determining total income at Rs.10,37,730/-. Subsequently, the Id. Pr.CIT, Cuttack charge, Cuttack set aside the

assessment order passed u/s.143(3) of the Act for adjudication of the issues afresh. Accordingly, the AO issued notice u/s.142(1) of the Act. Since the assessee failed to comply the notice issued by the AO, therefore, he proceeded to pass best judgment assessment or ex-parte assessment u/s.144 of the Act. During the course of assessment, it was observed by the AO that the assessee could not produce supporting documentary evidences to substantiate the expenses claimed at Rs.37,76,898/- in her return of income. Even no books of accounts have been produced by the assessee. Accordingly, the AO added the profit of the assessee at Rs.27,71,913/- to the total income of the assessee. It was submitted by the Id. AR that the Id. CIT(A) has committed gross error of law as well as of facts in not providing sufficient opportunity of being heard to the assessee. Therefore, it was the prayer that the issue in the appeal may be restored to the file of Id. AO for which the assessee would be able to substantiate her claim before the Id. AO.

3. In reply, Id CIT-DR vehemently submitted that the assessee has been non-cooperative and if at all to decide to restore the matter, the issues may be restored to the file of the Id CIT(A). It was the submission that in fact on account of the non-cooperation, the appeal of the assessee is liable to be dismissed.

4. We have considered the rival submissions. A perusal of the facts of the present case shows that the assessee could not represent her case before the Id. CIT(A) as a result of which, the Id. CIT(A) has dismissed the appeal of the assessee on account of non-prosecution. On perusal of the

order of the Id. CIT(A), it is found that the Id. CIT(A) has dismissed the appeal of the assessee on account of non-compliance of the notice issued by the AO u/s.142(1) of the Act. Further on perusal of the assessment order, it is discernible that the assessee had also not provided any documents during the course of assessment proceedings. On being asked, during the course of hearing, with regard to non-compliance on the part of the assessee before both the authorities below, Id.AR of the assessee submitted that the assessee may be provided one more opportunity to represent its case before the Id. AO. This being so, in the interest of justice, the issues in the appeal are restored to the file of the Assessing Officer for re-adjudication after granting the assessee adequate opportunity of being heard. The assessee is directed to cooperate in the assessment proceedings.

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

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

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

कटक Cuttack; दिनांक Dated 10/10/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Aparna Pradhan,
Haladidiha, At: Haladidiha,
PO: Ostapur, Dist: Kendrapara-75422
2. प्रत्यर्थी / The Respondent-
ITO, Kendrapara Ward, Kendrapara
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