

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, 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.167/CTK/2023

(निर्धारण वर्ष / Assessment Year : 2016-2017)

AM SB Infra Private Limited, At: Plot No.31(P), Khata No.54, PO/PS: Pokhariput, Bhubaneswar	Vs	DCIT, Circle-1(1), Cuttack
PAN No. : AAKCA 2169 F		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से / Revenue by	:	Shri Charan Dass, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	09/10/2023
घोषणा की तारीख / Date of Pronouncement	:	09/10/2023

आदेश / ORDER

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 10.03.2023, passed in ITBA/NFAC/S/250/2022-23/1050581819(1) for the assessment year 2016-2017.

2. It was the submission of the Id. AR that the issue in the assessee's appeal was in regard to the confirmation of the assessment order on the issue of disallowance u/s.40(a)(ia) of the Act on account of non-deduction of TDS in respect of purchases of agricultural land by the assessee. It was the submission that the Id.AO had not considered the fact that the TDS was not liable to be made nor has considered the fact that the payments have been made to multiple persons and in respect of whom TDS is not

liable to be made. It was further submission that the Id. AO has also not considered the fact that the assessee had claimed the purchases of land was not to be considered as an expenditure. It was the further submission that the Id. CIT(A) without considering the evidence produced before him has dismissed assessee's appeal.

3. In reply, Id. Sr. DR vehemently supported the orders of the Id. AO and Id. CIT(A). It was the submission of the Id. Sr. DR that the assessee has not appeared before the Id. CIT(A) though multiple opportunities have been given. It was further submitted by the Id. Sr. DR that adequate opportunities had been granted by the AO in the course of assessment proceedings and the assessee has not provided all the details. Thus, it was the prayer that the order of the Id. CIT(A) is liable to be upheld.

4. We have considered the rival submissions. As it is noticed that the assessee admittedly has not appeared before the Id. CIT(A) and also the assessee has categorically mentioned that the payments have been made to the multiple persons, which is evidenced from the assessment order page 2, wherein the Id. AO has incorporated the name of the payees, from whom the assessee has purchased the land. In the interest of justice, the issues in this appeal are restored to the file of AO for readjudication after granting adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 09/10/2023.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

कटक Cuttack; दिनांक Dated 09/10/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
AM SB Infra Private Limited,
At: Plot No.31(P), Khata No.54,
PO/PS: Pokhariput, Bhubaneswar
2. प्रत्यर्थी / The Respondent-
DCIT, Circle-1(1), Cuttack
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