

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.118/CTK/2023

(निर्धारण वर्ष / Assessment Year :2011-2012)

Sri Pradip Kumar Beuria, Maninathpur, Solampur, Bhadrak-751001	Vs	ITO, Bhadrak Ward, Bhadrak
PAN No. :AHGPB 2126 D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Mr. Somanath Sahoo, Advocate
राजस्व की ओर से /Revenue by	:	Shri Charan Dass, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	16/10/2023
घोषणा की तारीख/Date of Pronouncement	:	16/10/2023

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id CIT(A)-2, Bhubaneswar, dated 19.01.2023 in Appeal No.Cuttack /1014/2016-17 for the assessment year 2011-2012.

2. It was submitted by the Id. AR that the assessee is an individual, who is doing civil contract. It was the submission that the original assessment came to be completed u/s.143(3) of the Act, wherein the AO had recognized that the assessee had made cash deposit of Rs.16,48,000/- in the savings bank maintained with Bank of India, Jajpur. It was the submission that in the course of original assessment the AO had estimated the income of the assessee at 7% of the said amount of Rs.16,48,000/- holding the same to be an unexplained business transaction of the assessee. An order u/s.263 of the Act was passed by the Id. Pr.CIT, wherein the Id. Pr.CIT has directed that the whole amount of Rs.16,48,000/- is liable to be considered as the undisclosed income of

the assessee as unexplained cash credit. It was the submission that unfortunately the assessee had not appealed against the order u/s.263 of the Act. It was the submission that in the order giving effect to the order passed u/s.263 of the Act, the AO has brought to tax the entire cash deposit in the savings bank account as the unexplained income of the assessee. The AO had made addition of Rs.15,32,640/- by reducing the amount of income which had already been assessed in the regular assessment. It was the submission that the assessee was doing petty contract work and this amount represented his receipts from the said petty contract. At this point, the Id. AR was requested to show the day-book in respect of the said transaction to which the Id. AR submitted that the day-book was not immediately available. He was then requested to provide the copy of the profit and loss account which was provided. However, in the profit and loss account it shows that the assessee is receiving contract work from various Government contract and his total contract during the year through Government contracts is nearly Rs.1.61 crores. The profit and loss account does not show any receipt from petty contracts. It was then requested to the Id. AR to provide the copy of the said bank account where the cash deposits have been made. It was submitted that the copy of the said bank account is not immediately available. It was the submission that the cash deposit was only for two days. Ld. AR further placed copy of the bank account of other accounts maintained by the assessee to submit that these deposits were out of the cash withdrawn from the said bank accounts. It was the submission that the addition as

made by the AO and as confirmed by the Id. CIT(A) is liable to be deleted. It was also submitted by the Id. AR that the AO had not mentioned about the Section under which the addition has been made.

3. In reply, Id. Sr. DR vehemently supported the orders of the Id. AO as well as the Id. CIT(A) and submitted that the Id. CIT(A) has invoked the Section 68 of the Act treating the cash deposits of Rs.16,48,000/- as unexplained cash credit. It was the submission that the assessee has not been able to prove the source of the said cash deposits.

4. I have considered the rival submissions. A perusal of the profit and loss account shows that the assessee has not shown the receipts from the petty contracts alleged to have been done by the assessee. The assessee has also not been able to show the bank account with the cash deposit of Rs.16,48,000/- The assessee has been unable to produce any evidence to show that the said cash deposits were out of the petty contract works insofar as he has been unable to identify the persons for whom he has done the work. Even if the assessee's claim that the amount of Rs.16,48,000/- is petty contract, is to be accepted, he has not been able to show his expenses in relation to such petty contract and it would have been deemed that the expenses have already been claimed in the profit and loss account. In these circumstances, as the assessee has been unable to make any substantial submission with evidence in regard to the cash deposit, therefore, I am of the view that the addition as made by the Id. AO and as confirmed by the Id. CIT(A) is on right footing,

which does not call for any interference. Thus, the appeal of the assessee is dismissed.

5. In the result, appeal of the assessee is dismissed.

Order dictated and pronounced in the open court on 16/10/2023.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 16/10/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Sri Pradip Kumar Beuria,
Maninathpur, Solampur,
Bhadrak-751001
2. प्रत्यर्थी / The Respondent-
ITO, Bhadrak Ward, Bhadrak
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