

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.294/CTK/2023

(निर्धारण वर्ष / Assessment Year :2009-2010)

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| Suresh Kumar Tanwani C/o Tanwani Rice Mill, At: Railway Station Road, PO/Dist : Balangir-767001 | Vs | ITO, Balangir Ward, Balangir |
| PAN No. : AAVPT 0712 B | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |
| निर्धारिती 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 | : | 22/11/2023 |
| घोषणा की तारीख/Date of Pronouncement | : | 22/11/2023 |

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 27.10.2022, passed in DIN & Order No.ITBA/NFAC/S/250/2022-23/1046486431(1) for the assessment year 2009-2010.

2. It was the submission of the Id. AR that the Id. CIT(A) without giving sufficient opportunity being heard to the assessee, has dismissed the appeal of the assessee ex-parte. It was also the submission that both the authorities below have not considered the explanation submitted by the assessee in the form of statement of facts and grounds of appeal. It was the submission the issues in this appeal may be restored to the file of Id. CIT(A) for fresh adjudication and the assessee may be given one more opportunity to provide the materials before the Id. CIT(A) to substantiate its claim.

3. In reply, Id.Sr.DR vehemently supported the orders of the authorities below. It was the submission that the assessee was given sufficient opportunity to provide the details in respect of his claim, however, the assessee could not produce the same either before the AO or before the Id. CIT(A). Therefore, the orders of both the lower authorities deserve to be upheld.

4. I have heard the rival submissions. A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) had granted a few opportunity to the assessee to represent its case before him. However, it is noticed that the assessee has not been effectively represented either before the AO or before the Id. CIT(A) and subsequently on account of non-availability of evidences before the Id. CIT(A), the issues have been held against the assessee. Considering the request of the Id. AR of the assessee and in the interest of natural justice, the issues in this appeal are restored to the file of Id. CIT(A) for readjudication after granting the assessee adequate opportunity of being heard. The assessee is also directed to produce all the material evidences in respect of his claim before the Id. CIT(A).

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

Order dictated and pronounced in the open court on 22/11/2023.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 22/11/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Suresh Kumar Tanwani
C/o Tanwani Rice Mill,
At: Railway Station Road,
PO/Dist : Balangir-767001
2. प्रत्यर्थी / The Respondent-
ITO, Balangir Ward, Balangir
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